

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Government,

vs.

ROD BLAGOJEVICH,

Defendant.

No. 08 CR 888

Chicago, Illinois

May 18, 2011

9:49 o'clock a.m.

VOLUME 17
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL
AND A JURY

For the Government:

THE HONORABLE PATRICK J. FITZGERALD,
UNITED STATES ATTORNEY

BY: Reid J. Schar

Carrie E. Hamilton

Christopher Niewoehner

Assistant United States Attorneys

219 South Dearborn Street;

Suite 500

Chicago, Illinois 60604

Court Reporter:

Blanca I. Lara, CSR, RPR

219 South Dearborn Street

Room 2504

Chicago, Illinois 60604

(312) 435-5895

1 APPEARANCES (continued:)

2

3 For Defendant Rod Blagojevich:

4

KAPLAN & SOROSKY
BY: Sheldon M. Sorosky
158 West Erie
Chicago, Illinois 60610
(312) 640-1776

7

8

LAW OFFICE OF Elliott Riebman
BY: Elliott Riebman
158 East Erie
Chicago, Illinois 60610
(847) 814-2900

10

11

12

OFFICES OF AARON B. GOLDSTEIN
BY: Aaron Benjamin Goldstein
6133 South Ellis
Chicago, Illinois 60637
(773) 752-6950

13

14

15

OFFICES OF LAUREN FAUST KAESEBERG
BY: Lauren Faust Kaeseberg
2140 N. Lincoln Park West
Suite 307
Chicago, Illinois 60614
(773) 517-0622

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Monk - cross by Sorosky

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1 THE MARSHAL: All rise.

2 (The following proceedings were had in the
3 presence of the jury in open court:)

4 THE COURT: Please be seated.

5 Does the government have any further
6 questions of the witness?

7 MR. NIEWOEHNER: No, Your Honor.

8 ALONZO MONK, GOVERNMENT WITNESS, PREVIOUSLY SWORN
9 CROSS EXAMINATION

10 BY MR. SOROSKY:

11 q Hello, Lon. How are you?

12 A Good morning.

13 q I believe you said you were the campaign manager
14 for the governor's first campaign in 2002, is that
15 correct?

16 A Yes.

17 q And you had never managed a political campaign
18 before, had you?

19 A No.

20 q And, of course, this was the campaign for the
21 governor of Illinois, was it not?

22 A Yes.

23 q Were you even a resident of the State of Illinois
24 when you received this position as campaign manager?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: Overruled.

2 BY THE WITNESS:

3 A No, I don't think I was.

4 BY MR. SOROSKY:

:50AM

5 Q And you, of course, you realized that the first
6 campaign might involve a democratic primary against
7 primary opponents, right?

8 A Yes.

:50AM

9 Q Now, did you know or have any relationship with
10 Mayor Daley?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 BY THE WITNESS:

13 A No.

:50AM

14 THE COURT: The point he's about to make is
15 is this is not someone experienced in Illinois
16 politics, that's fine. Just don't overdo it.

17 MR. SOROSKY: Okay. I won't overdo it.

18 BY MR. SOROSKY:

19 Q Did you have any relationship with Mayor Daley?

:51AM

20 A No.

21 Q Did you know Mayor Daley?

22 A No.

:51AM

23 Q Did you have any relationship with Speaker of the
24 House and Chairman of the Democratic party, Michael
25 Madigan?

1 A No.

2 Q Did you even know the man?

3 A No.

4 Q Did you know any presidents or leaders of unions
5 in the State of Illinois who might potentially be
6 supporters of Congressman Blagojevich when he was
7 running for governor?

8 A You mean when I was hired as campaign manager?

9 Q Right.

10 A No.

11 Q So you didn't know very much about anything
12 concerning a campaign in Illinois when you were made
13 governor of Blagojevich's campaign chairman, isn't
14 that true?

15 A Yeah.

16 Q Basically, he just hired you because he trusted
17 you and you were his friend, right?

18 MR. NIEWOEHNER: Objection.

19 THE COURT: Sustained.

20 BY MR. SOROSKY:

21 Q And what was your salary as campaign manager?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: Overruled.

24 BY THE WITNESS:

25 A You know, I can't remember specifically when I

1 was hired. I think it may have developed in like
2 \$5,000 a month, I'm not sure at the beginning.

3 q And for that you were paid by check, were you
4 not?

5 MR. NIEWOEHNER: Objection, Your Honor.

6 THE COURT: Sustained.

7 BY MR. SOROSKY:

8 q Now, so then after Congressman Blagojevich or
9 then Congressman Blagojevich won the Democratic
10 primary and won the general election, he became
11 governor, right?

12 A Correct.

13 q And he made you his Chief of Staff, did he not?

14 A Yes.

15 q Have you ever been the Chief of Staff for any
16 public officeholder before you were governor
17 Blagojevich's Chief of Staff?

18 A No.

19 q And once again, he made you his Chief of Staff
20 because he trusted you, did he not?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: You're going to ask this every
23 time or is this like the once?

24 MR. SOROSKY: Just that one last question.

25 THE COURT: Okay.

1 You can answer.

2 BY THE WITNESS:

3 A Yeah, he trusted me.

4 BY MR. SOROSKY:

5 q And you and Rod met in law school in Southern
6 California, is that correct?

7 A Yes.

8 q And you and Rod went to Pepperdine Law School in
9 Southern California, correct?

10 A Yes.

11 q And that's in Malibu, California?

12 A Yes.

13 q And what town did you -- and you grew up in
14 Southern California, did you not?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: He can answer that one.

17 BY THE WITNESS:

18 A Yes.

19 BY MR. SOROSKY:

20 q what town did you grow up?

21 A Palos Verdes.

22 q what town?

23 A Palos Verdes.

24 q So would I be correct in saying you were the rich
25 kid from Southern California and he was the poor kid

1 from the northwest side of the City of Chicago?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: Sustained.

4 BY MR. SOROSKY:

:54AM

5 q Your father was a prominent doctor, wasn't he?

6 MR. NIEWOEHNER: Objection.

7 THE COURT: Sustained.

8 BY MR. GOLDSTEIN:

9 q Your mother wasn't a CTA ticket agent, was she?

:55AM

10 MR. NIEWOEHNER: Objection.

11 THE COURT: Sustained.

12 BY MR. SOROSKY:

13 q You and Rod became good friends, is that correct?

14 A Yes.

:55AM

15 q And after law school, for the next 20 years, you
16 and he lived basically in separate cities, right?

17 A (No response.)

18 q Until about --

19 A Not quite 20. Almost 20 years.

:55AM

20 q Almost 20 years.

21 A Right.

22 q You two lived in separate cities, right?

23 A Yes.

:55AM

24 q He became a lawyer and worked in Chicago and you
25 were a -- you worked for a company that basically

1 represented athletes and sports -- people in sports
2 and entertainment, right?

3 A Yes.

4 q And you primarily represented athletes to get
5 them higher fees or more money for endorsements and
6 better contracts, that type of thing, right?

7 A Yes.

8 q So if you represented someone who played tennis,
9 you would try to get him an endorsement with a
10 tennis shoe company and get him as much money as you
11 could for that, right?

12 A Yes.

13 q And to best of your knowledge, Rod was never
14 involved in those types of activities, was he?

15 A No.

16 q And, by coincidence, both you and Rod happened to
17 be in Washington, D.C. in about the year 2000, 2001,
18 is that correct? Or, rather, you both lived in
19 Washington, D.C. around that time, right?

20 A Yeah.

21 q And now the poor kid from the northwest side is a
22 congressman and you're still trying to hustle
23 contracts for athletes, right?

24 MR. NIEWOEHNER: Objection.

25 THE COURT: To the form of the question,

1 sustained.

2 BY MR. SOROSKY:

3 q Well, Rod at this time was a United States
4 Congressman, wasn't he?

5 A What period of time? I'm sorry.

6 q 2000, 2001.

7 A Yes.

8 q But during those entire 20 years you and Rod were
9 apart, Rod and you remained close friends, did you
10 not?

11 A Yes.

12 q And, in fact, when Rod got married, you were the
13 best man at his wedding, were you not?

14 A No.

15 q You stood up at his wedding, right?

16 A I was an usher or attendant in the wedding.

17 q Now, the best man was his brother, is that
18 correct?

19 A I think that's right, yeah.

20 q Now, this wedding was--what?--1991?

21 A Yeah. I don't remember the specific year, but
22 around then, yeah.

23 q So the wedding would be midway or pretty much
24 close to midway or in the middle between the time
25 you guys parted after graduation, after graduation

1 from law school, and the time you two hooked up
2 again in Washington in about 2000, 2001, right?

3 A Yes.

4 Q And, going back to the campaign, Rod won a close,
5 highly contested democratic primary, didn't he?

6 A Yes.

7 Q And he won the general election, did he not?

8 A Yes.

9 Q What did you do to assist in winning those two
10 elections?

11 A Help manage the staff, interview consultants, met
12 with elected officials, watched the budget.

13 Q So, really, the most important thing Rod wanted
14 you to do is watch the budget, isn't that so?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: Sustained to the form.

17 BY MR. SOROSKY:

18 Q Wasn't that the primary reason or one of the main
19 reasons you were hired as campaign manager, didn't
20 Rod say to you, you're my friend, I need you, Lon,
21 to watch the budget?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: Did he say those words to you?

24 THE WITNESS: Not specifically, but that's
25 pretty close.

Monk - cross by Sorosky

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1 BY MR. SOROSKY:

2 q Pretty close?

3 A If yeah.

4 q Rod didn't need you to get an endorsement from
5 Mayor Daley, did he?

6 A No.

7 q Rod didn't need you to get an endorsement from
8 the various groups around Illinois that might
9 endorse someone, did he?

10 A No. Not initially, no.

11 q Now, let's change topics a little bit and let's
12 get into this trust and how you watched the budget;
13 okay?

14 Now, during this campaign, you met a man by
15 the name of Antoin Rezko, did you not?

16 A Yes.

17 q And his nickname was Tony Rezko, is that correct?

18 A Yes.

19 q That's R-e-z-k-o?

20 A Yes.

21 q He was a well to do businessman, was he not?

22 A Yes.

23 q He was a supporter of Governor Blagojevich, was
24 he not?

25 A Yes.

Monk - cross by Sorosky

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1 q And he was a fundraiser for Governor Blagojevich,
2 was he not?

3 A Yes.

4 q And to the best of your knowledge, Governor
5 Blagojevich had met Rezko in Chicago prior to you
6 becoming campaign manager, right?

7 A Yes.

8 q And you say Rezko was a real estate developer,
9 isn't that correct?

10 A Yeah.

11 q And he also owned some food chain franchises?

12 A Yes.

13 q And you became Chief of Staff in about January
14 of 2003 when Rod became governor, right?

15 A Yes.

16 q And by the middle of 2004, a year and a half
17 later, there were controversies swirling around
18 about Mr. Rezko, were there not?

19 A Yes.

20 q And there were articles in the newspaper not very
21 favorable toward Mr. Rezko, were there not?

22 A Yes.

23 q And this would certainly be a time when Rod would
24 want your advise and counsel as to how he should
25 handle the Rezko matter? wouldn't that be such a

Monk - cross by Sorosky

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1 time?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: Sustained.

4 BY MR. SOROSKY:

5 q Now, you would admit that it is, say, a
6 coincidence that at the time there is this
7 controversy about Mr. Rezko, you start receiving
8 this cash from Mr. Rezko? would you say it's a
9 peculiar coincidence?

10 MR. NIEWOEHNER: Objection.

11 THE COURT: Just ask the question. Keep the
12 argument out of it until the appropriate time at the
13 end.

14 MR. SOROSKY: I apologize.

15 BY MR. SOROSKY:

16 q So you begin to receive this cash from Mr. Rezko
17 at the same time these controversies commenced and
18 began about Mr. Rezko, right?

19 A I received initial cash in like May of 2004.

20 q And that was just about the same time all these
21 controversies began, right?

22 A They started a little bit after that, yeah.

23 q You never told Rod, "you know, Rod, I know Tony
24 is a good guy and he's your friend and all that, but
25 maybe we better part company with him or maybe we

1 better watch it or stop dealing with him, he's not
2 the best guy in the world for you to be dealing
3 with," you never told him that, did you?

4 MR. NIEWOEHNER: Objection.

:05AM

5 THE COURT: The objection is sustained.

6 MR. SOROSKY: I apologize.

7 BY MR. SOROSKY:

8 Q Did you ever tell him words to that effect or
9 something like that, if not those exact words?

:05AM

10 MR. NIEWOEHNER: Objection, Your Honor.

11 THE COURT: Overruled. He can answer.

12 BY THE WITNESS:

13 A No.

14 BY MR. SOROSKY:

:05AM

15 Q And although you may not have been schooled in
16 politics, you did graduate from law school, did you
17 not?

18 A Yes.

19 Q You're an intelligent person, are you not?

:06AM

20 A Sometimes.

21 Q Rod is your friend, is he not?

22 A Yes.

23 Q At least he was your friend in 2004, was he not?

24 A Yes. Yes. Yes.

:06AM

25 Q You know he was governor of the state, right?

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1 A Yup.

2 q You know it's not good for the governor to be
3 associated with someone who is accused of financial
4 improprieties?

:06AM

5 MR. NIEWOEHNER: Objection, Your Honor.

6 THE COURT: The objection is sustained.

7 BY MR. SOROSKY:

8 q Now, all this cash that Tony Rezko gave you, did
9 you ever declare that on your income tax?

:07AM

10 A No.

11 q And you're saying you don't even know if he gave
12 you \$70,000 or \$90,000?

13 MR. NIEWOEHNER: Objection.

14 THE COURT: The objection is sustained.

:07AM

15 BY MR. SOROSKY:

16 q Now, if you were to earn \$90,000 in real money at
17 a job, you'd maybe have to earn 120 or 25,000
18 dollars a year because you got to pay some taxes,
19 right?

:07AM

20 MR. NIEWOEHNER: Objection.

21 THE COURT: Sustained.

22 BY MR. SOROSKY:

:07AM

23 q The point I want to make is, if this was
24 legitimate money you were receiving, it actually
25 would be more than \$90,000 because, you know, maybe

1 30 percent would go to taxes, right?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: I think the jury probably
4 understands now that he didn't report it to the IRS.

5 BY MR. SOROSKY:

6 q And you said you spent this money on groceries?

7 A Some of it, yeah.

8 q Were you not eating before you got this money?

9 MR. NIEWOEHNER: (Counsel standing.)

10 THE COURT: Sustained.

11 BY MR. SOROSKY:

12 q And you never said to your good friend Rod, "hey,
13 Rod, I just made, I made a bit of a score, could I
14 give you a few thousand"? You never said that to
15 him, did you?

16 MR. NIEWOEHNER: Objection.

17 THE COURT: Sustained.

18 BY MR. SOROSKY:

19 q And you never told Rod about this, right?

20 A No.

21 q And you said Rod would not approve of this,
22 right?

23 A He wouldn't approve of the method in which I was
24 getting the money.

25 q Now, you alluded yesterday a little bit to the

1 fact that you and Rod and Rezko and Mr. Kelly were
2 in this big conspiracy to get money illegally
3 through state action, right?

4 MR. NIEWOEHNER: Objection.

5 THE COURT: To the form, sustained.

6 BY MR. SOROSKY:

7 q well, you not alluded, I apologize, you actually
8 said under oath that you and Rod and Tony Rezko and
9 Chris Kelly had talked about attempting to make
10 money illegally through improperly using state
11 action to give contracts to friends and this type of
12 thing, right?

13 MR. NIEWOEHNER: Objection.

14 THE COURT: To the form, and it's a
15 misstatement, the objection is sustained.

16 BY MR. SOROSKY:

17 q well, you certainly mentioned that there was a
18 conversation where Mr. Rezko said I have all these
19 ideas where we could make money illegally, do you
20 remember saying that?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: Sustained.

23 BY MR. SOROSKY:

24 q Okay. I'm not a good enough lawyer to do it, you
25 tell the ladies and gentlemen of the jury what did

1 Rezko tell you that day?

2 MR. NIEWOEHNER: Foundation, Your Honor.

3 THE COURT: Yeah, put the foundation in.

4 BY MR. GOLDSTEIN:

:10AM

5 Q All I want you to do is answer the same question
6 that Mr. Niewoehner asked you about what
7 Mr. Rezko --

:10AM

8 THE COURT: Mr. Sorosky, there's nothing
9 wrong with your asking this question, but the reason
10 you got to lay a foundation for this is that
11 everybody knows you're talking about the same
12 conversation at the same time and the same place,
13 and then you can ask it, that's fine.

14 BY MR. SOROSKY:

:11AM

15 Q I believe you said that there was a meeting at
16 Mr. Rezko's office in 2003 and a meeting in early
17 2004 at a hotel in California where you were
18 present, Governor Blagojevich was present, Mr. Kelly
19 was present, and Mr. Rezko was present, and certain
20 things were talked about, right?

:11AM

21 A Right.

22 Q And Mr. Niewoehner asked you that very question,
23 right?

24 A Right.

:11AM

25 Q So just there's no tricks, at those

1 conversations, Mr. Rezko, according to you,
2 mentioned ways in which the four of you could make
3 money illegally, did he not?

4 MR. NIEWOEHNER: Objection.

5 THE COURT: Why don't you go back to the good
6 question you had asked before.

7 MR. SOROSKY: Okay.

8 BY MR. SOROSKY:

9 Q What did Mr. Rezko say. I don't want to put
10 words in anyone's mouth.

11 A He had listed a number of ideas up on an easel or
12 Chalkboard, different ideas, on the way the four of
13 us can make money and some of it involved state
14 action.

15 Q And just to make -- just so we're clear, I think
16 you said he listed approximately 8 different ideas,
17 right?

18 A Approximately, yes.

19 Q And you don't remember 7 of them, you only
20 remember possibly buying an insurance company,
21 right?

22 A Right.

23 Q And that insurance company, to the best of your
24 knowledge, was never bought, right?

25 A Correct.

1 q So if you're involved in this illicit plan, why
2 didn't you tell Rod, "hey, Tony, has just given me
3 10,000 regularly, are you getting your end"?

4 MR. NIEWOEHNER: Objection.

5 THE COURT: The objection is sustained.

6 BY MR. SOROSKY:

7 q Did you ever tell Mr. Rezko, "well, should I give
8 any of this to the governor"?

9 MR. NIEWOEHNER: Objection.

10 THE COURT: It's sustained.

11 BY MR. SOROSKY:

12 q Now, you received this cash over an almost
13 one-year period, right?

14 A Approximately a year, yeah.

15 q And during that year, you practically saw Rod
16 every day, right?

17 A I don't know if we saw each other every day, we
18 certainly communicated every day.

19 q And Rod certainly confided in you all the woes
20 and problems that he had as governor, did he not?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: Objection to the form of the
23 question is sustained.

24 BY MR. SOROSKY:

25 q Did Rod confide in you all the problems and woes

1 he had as governor?

2 MR. SCHAR: Objection.

3 THE COURT: The objection is sustained.

4 You could make it perhaps a little more
5 neutral for him.

6 BY MR. SOROSKY:

7 Q Did Rod confide in you, I'm not talking about the
8 governmental problems, but the problems: "Oh, my
9 God, how do I deal with Madigan, how do I deal with
10 the bad articles in the paper, had do I deal with
11 Daley, how do I deal with the Rezko issues? He
12 asked you, you talked about those types of things,
13 did you not?

14 MR. NIEWOEHNER: Compound.

15 THE COURT: It's sustained.

16 BY MR. SOROSKY:

17 Q well, did he ever say to you, "oh, my God, how do
18 I deal with Madigan"?

19 A From time to time we talked about his
20 relationship with the Speaker. I'm not sure I was
21 his number one go-to guy to talk about that, though.
22 Q Did he talk to you about, "oh, my God, we've been
23 criticized in the press today about a certain topic,
24 how do we handle that"? Did he ever talk to you
25 about those types of things?

Monk - cross by Sorosky

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1 A He would talk to me about those things, he
2 wouldn't necessarily ask me how to handle it every
3 time.

4 Q But he talked to you about it, right?

5 A Yes.

6 Q And some of the times when you talked to him, you
7 would certainly give your opinion and your advise,
8 would you not?

9 A Yes.

10 Q You are a law school graduate, are you not?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 THE COURT: This is really repetitive.

13 BY MR. SOROSKY:

14 Q Well, at this time, during the year that you were
15 taking this cash, there were certainly derogatory
16 articles in the press about Mr. Rezko, weren't
17 there?

18 A There were some, yeah.

19 Q And would you say your advise or attitude toward
20 Mr. Rezko was somewhat tainted or biased by this
21 cash you were receiving?

22 MR. NIEWOEHNER: Objection, Your Honor.

23 THE COURT: Maybe you could make the question
24 a little simpler.

25

1 BY MR. SOROSKY:

2 q Okay. Can't get simpler than this: Did the cash
3 Rezko gave you affect your attitude toward Rezko?

4 A No.

5 q You realize you're under oath?

6 MR. NIEWOEHNER: Objection, Your Honor.

7 THE COURT: That is a violation of the rules,
8 and particularly in this particular context. Don't
9 do it again, Mr. Sorosky.

10 MR. SOROSKY: Okay.

11 BY MR. SOROSKY:

12 q Now, in 2005, the summer of 2005, you submitted
13 to an interview by the FBI, did you not?

14 A Yes.

15 q And at that time you were Chief of Staff, right?

16 A Yes.

17 q At that time, to the best of your knowledge, you
18 were not under investigation, were you?

19 A To the best of my knowledge, no.

20 q That interview was maybe 3 hours or so?

21 A Yes. It seemed like a long time, but that's
22 probably right.

23 q You were there with your attorney, is that
24 correct?

25 A Yes.

1 q And the FBI asked you a whole series of questions
2 about a variety of topics concerning your employment
3 as Chief of Staff to the governor, right?

4 A Yes.

5 q Now, you never told the FBI -- oh, excuse me.
6 They certainly asked you about Mr. Rezko, did they
7 not?

8 A I believe they did. I mean, I don't remember
9 specifically, but I'm sure they did.

10 q But he certainly was a topic of inquiry, was he
11 not?

12 A To the best of my recollection, yeah.

13 q And certainly was --

14 And Mr. Kelly was also a topic of inquiry,
15 was he not?

16 A I'm pretty much he was, yeah.

17 q And one of the topics of inquiry was Mr. Kelly
18 and Mr. Rezko's relationship to the operation of the
19 governor, right?

20 A Yes.

21 q Well, and you answered the questions, did you
22 not?

23 A Yes.

24 q They also asked you your relationship with
25 Mr. Rezko and Kelly concerning the operation of

1 government, did they not?

2 A Yes.

3 q Did you ever tell them that, well, things between
4 Rezko and I were running very smoothly because he
5 was giving me \$90,000 in cash?

6 A No, I didn't say that.

7 q And, as a matter of fact, you were receiving this
8 cash before the interview, were you not?

9 A Yes.

10 q And you continued to receive this cash after the
11 interview, right?

12 A I don't remember specifically when I got the
13 final payment from Tony. I don't know if it was
14 before or after. It could've been.

15 q So you lied to the FBI, right?

16 A Yes.

17 q Now, this interview you had with the FBI was in
18 the summer of 2005, correct?

19 A Yes.

20 q Now, at the end of 2005, you resigned as Chief of
21 Staff, isn't that correct?

22 A Yes.

23 q And you become the campaign manager for Governor
24 Blagojevich's reelection, is that correct?

25 A Yes.

1 q So the entire year 2006, you received a salary as
2 a campaign manager, is that correct?

3 A Yes.

4 q And you're formally not working for the State of
5 Illinois, you're paid by the Blagojevich campaign,
6 is that correct?

7 A Correct.

8 q And what was your salary for that year?

9 A Yeah, I think it was \$20,000 a month.

10 q So that's \$240,000 a year, correct?

11 A Yeah, but I -- I stopped being campaign manager
12 after he was elected.

13 q So --

14 A But it's close.

15 q So it was over \$200,000, would that be a --

16 A Yes.

17 q Once again, you got that job because Rod trusted
18 you and you were his friend, right?

19 A Yes.

20 q You really were not an experienced campaign
21 manager, were you?

22 A Compared to 2002 I was.

23 q Well, obviously, you learned a little more after
24 the first campaign, I recognize that. But you
25 really were not an experienced campaign manager,

1 let's be frank, Mr. Monk, isn't that correct?

2 A Correct.

3 q So this was another financial graciousness by Rod
4 to you, was it not?

5 MR. NIEWOEHNER: Objection.

6 THE COURT: Sustained as to its form.

7 BY MR. SOROSKY:

8 q And then after the reelection, you became a
9 lobbyist, did you not?

10 A Yes.

11 q And tell the ladies and gentlemen of the jury
12 what a lobbyist does.

13 A They represent the interests of various companies
14 who want to do business with the state or are
15 interested in certain legislation.

16 q And how much money did you make as a lobbyist,
17 your first year out in 2007?

18 MR. NIEWOEHNER: Objection.

19 THE COURT: Overruled.

20 BY THE WITNESS:

21 A I think it was about \$750,000.

22 BY MR. SOROSKY:

23 q And how much money did you make in 2008 as a
24 lobbyist?

25 A A little bit over a million dollars.

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1 q And you made this money and people wanted to hire
2 you because they knew you were the best friend of
3 the governor, right?

4 MR. NIEWOEHNER: Objection.

5 THE COURT: Sustained.

6 BY MR. SOROSKY:

7 q What other attribute did you bring to the table
8 other than I'm the governor's pal?

9 MR. NIEWOEHNER: Objection.

10 THE COURT: I don't really think you can ask
11 him questions which require making conclusions about
12 somebody else's intention. You could, of course,
13 call some of these people to the witness stand. I
14 don't think that's the point you're after.

15 MR. SOROSKY: All right.

16 BY MR. SOROSKY:

17 q Could you tell ladies and gentlemen of the jury
18 one or two or three of your clients who hired you
19 and gave you these generous fees?

20 MR. NIEWOEHNER: Objection.

21 THE COURT: Sustained on the grounds of
22 relevance.

23 BY MR. SOROSKY:

24 q Could you name one client?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: The objection is sustained.

2 BY MR. SOROSKY:

3 Q Now, you had a background in representing sports
4 agents or you had a background as being a sports
5 agent, correct?

6 A Yes.

7 Q Did any athlete hire you to say, oh, Mr. Monk, I
8 want something from the State of Illinois --

9 MR. NIEWOEHNER: Objection.

10 THE COURT: Don't ask him to read minds
11 unless you got some underlying conversation to it.

12 BY MR. SOROSKY:

13 Q Now, on December 8th, 2009, Governor Blagojevich
14 was charged with the matters that are before the
15 Court today, right?

16 A I don't think that's the right year.

17 Q What?

18 A I don't think that's the right year.

19 Q In 2008, I apologize. December 9th, 2008.

20 A Yes.

21 Q Governor Blagojevich is charged with the matters
22 that are before this Court and this jury today,
23 right?

24 A Yes.

25 Q Now, and you were not charged on that day, were

Monk - cross by Sorosky

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1 you?

2 MR. NIEWOEHNER: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. SOROSKY:

5 q Well, you were arrested on December 9th, 2008 --

6 MR. NIEWOEHNER: Objection.

7 THE COURT: The objection is sustained.

8 BY MR. SOROSKY:

9 q Well, after that day or shortly after that day,
10 you contacted your lawyer, right?

11 MR. NIEWOEHNER: Objection.

12 THE COURT: Overruled.

13 BY THE WITNESS:

14 A Yes.

15 BY MR. SOROSKY:

16 q And by the end of the month of December 2008, you
17 were cooperating with the government, right?

18 A I don't know if it was right then, but around
19 there, yeah.

20 q Did you ever call Rod up and say, sorry, "pal, I
21 gotta do this to you"?

22 MR. NIEWOEHNER: Your Honor --

23 THE COURT: Sustained.

24 BY MR. SOROSKY:

25 q Now, you, of course, knew that you had this

1 matter of taking or receiving 70 to 90,000 dollars
2 in cash from Mr. Rezko, did you not?

3 A Yes.

4 q And you also knew at this time that Mr. Rezko had
5 already been convicted and was in jail, right?

6 A Yes.

7 q And press reports indicated that Mr. Rezko was
8 making statements to the government?

9 MR. NIEWOEHNER: Objection, Your Honor.

10 THE COURT: Objection to the form.

11 MR. SOROSKY: What?

12 THE COURT: Objection the form. You're
13 asking --

14 MR. SOROSKY: Okay.

15 BY MR. SOROSKY:

16 q Were you aware through reading newspaper articles
17 that Mr. Rezko was making statements to the
18 government?

19 A I believe so, yeah.

20 q So after the governor was charged with these
21 matters that are before the Court, you realized I
22 got a problem with taking this money, didn't you?

23 A Along with a number of other --

24 q This being the 70 to 90,000 dollars in cash.

25 A Along with a number of other things that were

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1 pointed out to me, yes.

2 q But before anything is pointed out to you, you
3 yourself knew "I got a problem taking that money,"
4 isn't that true, Mr. Monk?

:31AM

5 MR. NIEWOEHNER: Objection; time frame.

6 BY MR. SOROSKY:

7 q After the governor was charged with these
8 matters.

9 A I was concerned about it before and after.

:31AM

10 q But you certainly were more concerned -- well,
11 wait a minute. You weren't concerned about it
12 enough before Governor Blagojevich was arrested to
13 go to the government and say, I want to confess all
14 my sins, I took 7 to 90,000 dollars in cash, you
15 didn't do that, did you?

:31AM

16 A No.

17 q And you certainly didn't tell the FBI, when you
18 were interviewed in 2005, well, I want -- I wasn't
19 taking this cash, did you?

:31AM

20 A No.

21 q So you lied about it in 2005 and you never
22 mentioned it until Blagojevich was charged, right?

23 A Right; when I began cooperating.

24 q That calls for a yes or no, Mr. Monk.

:32AM

25 A Could you ask the question again? I'm sorry.

1 q You lied about taking this cash in 2005, right?

2 A Yes.

3 q And you didn't tell any legal authority or any
4 law enforcement official or admit that you were
5 taking this cash before Governor Blagojevich was
6 charged, did you?

7 A No.

8 q But after he was charged, you promptly went to
9 the government and related it with swiftness and
10 promptness, did you not?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 THE COURT: Maybe a fewer adjectives.

13 BY MR. SOROSKY:

14 q Okay, without adjectives, you related it to the
15 government, did you not?

16 A Yes.

17 q When you first related it to the government, you
18 related it in a meeting at the FBI office or the
19 United States Attorney's Office and you had a number
20 of meetings and you told them this, correct?

21 A Yes.

22 q And, in fact, you probably had about 30 meetings
23 with the government going over the facts of this
24 case, did you not?

25 A Yeah; at least.

1 q That was to prepare for trial, right?

2 A Correct.

3 q You never met with your old friend's lawyers to
4 prepare for trial, did you?

:34AM 5 MR. NIEWOEHNER: Objection.

6 THE COURT: The objection is sustained.

7 BY MR. SOROSKY:

:34AM 8 q Now, and then after you had these 30 meetings and
9 prepared for trial, you testified before the grand
10 jury, is that correct?

11 A Yes.

12 q And the grand jury consists of 23 people, right?

13 A I don't recall how many people it is.

:35AM 14 q You have jurors there like we have jurors here,
15 right?

16 THE COURT: Maybe if I can just clarify it.

17 MR. SOROSKY: Clarify it; by all means.

:35AM 18 THE COURT: A grand jury has 23 members,
19 there have to be at least 16 of them before they can
20 proceed. So it can be anywhere from 16 to 23.

21 BY MR. SOROSKY:

22 q Now, at the grand jury, you certainly spoke about
23 this cash or receiving this cash from Mr. Rezko, did
24 you not?

:35AM 25 A Yes.

1 q And did you say at the grand jury:

2 "I understood that Rezko was making a gift to
3 me" --

4 MR. NIEWOEHNER: Objection, Your Honor;
5 foundation.

6 BY MR. SOROSKY:

7 q -- concerning the cash"?

8 THE COURT: You're asking if those were his
9 exact words?

10 MR. SOROSKY: Yes. I mean, those are his
11 words. I don't think there's any dispute that those
12 are his words.

13 THE COURT: You can answer.

14 BY MR. SOROSKY:

15 q Did you testify at the grand jury "I understood
16 that Rezko was making a gift to me," right? You
17 testified to that under oath before the grand jury,
18 right?

19 A Without looking specifically at the testimony, I
20 can't remember specifically what I said. If you've
21 got a copy of it, can I see it?

22 MR. SOROSKY: If I may approach the witness?

23 THE COURT: Sure.

24 BY THE WITNESS:

25 A Yes.

1 BY MR. SOROSKY:

2 q Now, I believe you testified before, just a few
3 minutes ago, that you admitted that you were
4 concerned about taking this 70 to 90,000 dollars in
5 cash from Mr. Rezko, right?

6 A Yes.

7 q Why would you be concerned about receiving a
8 gift? People receive gifts every day.

9 MR. NIEWOEHNER: Objection.

10 THE COURT: The objection is sustained.

11 BY MR. SOROSKY:

12 q Now, I believe you previously testified in this
13 matter, did you not?

14 A Yes.

15 q And you certainly testified about this topic of
16 receiving cash from Mr. Rezko, did you not?

17 A Yes.

18 q And you were under oath when you previously
19 testified in this matter just as you were under oath
20 in the grand jury, correct?

21 A Yes.

22 q And did you testify in this matter previously
23 that you thought of this cash as some sort of an
24 advance, an advance in salary for working for
25 Mr. Rezko?

1 A Yes.

2 q So let's get this right. One time under oath you
3 testified before a grand jury that it's a gift --

4 MR. NIEWOEHNER: Objection, Your Honor.

5 BY MR. SOROSKY:

6 q -- and a second time --

7 THE COURT: Wait. Wait.

8 These are issues for argument, not for this
9 question.

10 BY MR. SOROSKY:

11 q Well, just one last question on this topic and
12 then we'll leave.

13 One time under oath you said it's a gift and
14 a second time under oath you say it's an advance in
15 salary?

16 MR. NIEWOEHNER: Objection, Your Honor.

17 THE COURT: Mr. Sorosky, you just, like, ran
18 over the sustained objection. This is something
19 which you can stand up and point out to the jury.
20 Just ask the guy questions and then you can make
21 your arguments, there'll be a time for that.

22 BY MR. SOROSKY:

23 q Well, did you say before the grand jury that it
24 was a gift? Simple question, yes or no.

25 MR. NIEWOEHNER: Objection, Your Honor; asked

1 and answered.

2 THE COURT: We're done with "did you say it."

3 BY MR. SOROSKY:

4 Q At a prior trial you said this was an advance in
5 salary?

6 THE COURT: Let's take a brief recess.

7 MR. SOROSKY: I didn't think I was through.

8 THE MARSHAL: All rise.

9 (The following proceedings were had out of the
10 presence of the jury in open court:)

11 THE COURT: Please be seated.

12 what my concern is, if you laid the
13 foundation where --

14 MR. SCHAR: You want the witness to leave?

15 THE COURT: No, he can stay.

16 If you laid the foundation which indicate a
17 witness says I said this on occasion A, I said this
18 on occasion B, you know, that's fine. I just don't
19 want you saying it in argument. You can say it in
20 argument later. This is the time to ask questions,
21 you make the record, and then you do the argument,
22 and this was the basis for my objection. Because
23 this is my concern, I thought maybe I wasn't clear,
24 which is why we have this recess so you understand.

25 MR. SOROSKY: Okay.

1 THE COURT: One way to look at it is is that
2 maybe it's good if you don't ask questions that
3 begin with the word "so," usually that signals an
4 argument.

5 MR. SOROSKY: I'll just ask on one occasion
6 you said this, on one occasion you said that.

7 THE COURT: Now, is this one that's been
8 asked before?

9 MR. SOROSKY: I just want to refer to this
10 topic.

11 THE COURT: No, no, no. If you're talking
12 about some new occasion --

13 MR. SOROSKY: No, just these last two.

14 THE COURT: No, it's repetitive. The
15 objection was it was asked and answered.

16 MR. SOROSKY: Okay, I'll go on to something
17 else.

18 THE COURT: That's fine.

19 Tell them it's a very short break and then
20 they got to come back.

21 THE CLERK: All right.

22 (Recess.)

23 THE COURT: Do you have a time estimate for
24 how much? I'm just asking because of a break.

25 MR. SOROSKY: An hour, at the most.

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1 THE COURT: Okay.

2 We may take another break before you finish,
3 but that's fine, the hour is fine.

4 MR. SOROSKY: Should we break now?

5 THE COURT: No, we'll break later.

6 THE MARSHAL: All rise.

7 (The following proceedings were had in the
8 presence of the jury in open court:)

9 THE COURT: Please be seated.

10 MR. SOROSKY: Now --

11 THE COURT: Wait, wait, wait.

12 (Brief pause).

13 THE COURT: Okay, now.

14 BY MR. SOROSKY:

15 Q Now, referring back to this cash again, in what
16 amounts did you receive these payments?

17 A \$10,000.

18 Q \$10,000 would be a lot of bills, wouldn't it?

19 A Yeah.

20 Q How -- how -- how did you receive them?

21 A Usually in hundred-dollar bills.

22 Q Well, could you tell the ladies and gentlemen of
23 the jury, you know, how these exchanges occurred, if
24 you will? How this all happened?

25 A Yeah --

Monk - cross by Sorosky

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1 q Or how, generally, it would have occurred.

2 A I would meet with Tony on, you know, a fairly
3 regular basis during that period of time and from
4 time to time he'd give me \$10,000 in an overnight
5 envelope.

6 q Would that be like something someone would send
7 through federal express, UPS, that type of envelope?

8 MR. NIEWOEHNER: Your Honor, outside grand
9 jury impeachment.

10 THE COURT: He can answer that question.

11 BY THE WITNESS:

12 A It was usually in a used overnight envelope.

13 BY MR. SOROSKY:

14 q Didn't even give you a new one, huh?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: That wasn't a question.

17 BY MR. SOROSKY:

18 q Did, as you refer to him, "Tony," did Tony say
19 anything to you when he would give this to you?

20 MR. NIEWOEHNER: Objection, Your Honor.

21 THE COURT: Sustained.

22 BY MR. SOROSKY:

23 q Did Mr. Rezko say anything when he would give you
24 these envelopes?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: Isn't that the same question that
2 I sustained the objection to?

3 MR. SOROSKY: I thought the objection was to
4 my little slang, as you said --

5 THE COURT: No, it was to the question.

6 MR. SOROSKY: All right.

7 BY MR. SOROSKY:

8 Q Now, after you were -- or after you started
9 cooperating with the government, you were told that
10 your telephone was wiretapped, were you not?

11 A Yes.

12 Q And you also were told that the governor's --
13 that the governor's telephone was wiretapped, were
14 you not?

15 A Yes.

16 Q And you were told the campaign office's
17 telephones were wiretapped, were you not?

18 A Yes.

19 Q And you were told there was actually a microphone
20 recorder within the campaign office to record the
21 in-person conversations, right?

22 A Yes.

23 Q And you also were told that you were overheard in
24 a number of conversations with both Governor
25 Blagojevich and Governor Blagojevich's brother, is

1 that correct?

2 A Yes.

3 q And in some or in many of your sessions with the
4 government, they played those recorded conversations
5 to you, did they not?

6 A Yes.

7 q And you listened to those conversations and the
8 government asked you questions about the topics
9 being spoken about and you answered the government,
10 right?

11 A Yes.

12 MR. SOROSKY: And, by the way, just so the
13 Court knows, all the calls I'm referring to now are
14 calls that the government played, so there is no
15 issue.

16 THE COURT: All right. Sure.

17 MR. SOROSKY: I'm talking about a call that
18 took place on November the 12th, 2008, between
19 Mr. Monk and Robert Blagojevich, the governor's
20 brother.

21 what session is it?

22 MR. GOLDSTEIN: 195.

23 MR. SOROSKY: Session 195.

24 BY MR. SOROSKY:

25 q Now, I'm first going to ask you this question,

1 you may remember it based on your review of the
2 tapes, but on November 12th, 2008, you and Robert
3 Blagojevich had a telephone conversation and that
4 telephone conversation was tape recorded. And I'm
5 going to ask you a question about it, and if you
6 remember you could answer, if not we'll play the
7 tape.

8 MR. NIEWOEHNER: Objection to the question in
9 terms of inserting facts into evidence.

10 THE COURT: Let me take a look at this one.
11 (Brief pause).

12 THE COURT: Why don't you come to the side
13 partly because I don't understand your question and
14 partly because I don't understand his objection.

15 MR. SOROSKY: I haven't asked the question.

16 THE COURT: I just want to talk so we don't
17 go down the wrong path.

18 (Proceedings heard at sidebar on the record.)

19 THE COURT: My understanding of this is not
20 that the governor ever said or implied that he would
21 never sign the bill, the issue was when would he
22 sign the bill.

23 And, now, maybe you're trying to do this
24 because you want to defend against the charge the
25 government has not made, which is that he wasn't

1 going to sign the bill, but maybe it's just, you
2 know, lots of complicated things in this case and
3 you have, as I said, a simple defense. But in this
4 case, the issue was no one has ever said, the
5 government has ever said that they thought he
6 wouldn't sign the bill, they were talking only about
7 when he would sign the bill; consequently, the
8 question is profoundly misleading, and I don't want
9 to mislead the jury. And the reason it's profoundly
10 misleading is that the witness answers the question,
11 "no, I didn't think he was going to sign the bill
12 unless he gives a contribution," but what the
13 witness is talking about is I didn't think he was
14 going to sign it soon unless he got the
15 contribution, and the jury could easily misconceive
16 that.

17 So why don't you tie it to what his
18 understanding of the issue was. And he has
19 testified at great length that the issue is when and
20 not whether, so I don't want you to re-characterize
21 what their position is.

22 MR. SOROSKY: I'll go on to a different topic
23 of understanding. Can I ask him that all these
24 understandings were first related to anyone after he
25 started cooperating with the government? whatever

1 his understandings were. His understandings were as
2 stated on direct examination, whatever they were,
3 they were.

4 THE COURT: I don't know how you can get to
5 that and I don't know what its relevance is. I
6 mean, maybe he told it to somebody else, maybe he
7 told it to some relative of his, he told his --

8 MR. SOROSKY: Well, I'll ask him.

9 THE COURT: No, I don't think that that is
10 relevant.

11 MR. SOROSKY: So what we feel we should be
12 able to ask regardless --

13 THE COURT: You can make an offer of proof.
14 I'll leave him on the witness stand and you can make
15 your offer of proof afterwards. Maybe there is
16 something in his answer that I'm not anticipating
17 that might be helpful to you that might be
18 admissible, but I don't want to answer in theory. I
19 know on the record now, the question that implies or
20 from what recently is inferred that what the issue
21 is is that he would never sign it is an improper
22 question.

23 (Proceedings resumed within the hearing of the
24 jury.)

25 BY MR. GOLDSTEIN:

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1 q In this phone call on November 12, 2008, you were
2 speaking to Robert Blagojevich and you told Robert:
3 "I ended up staying longer than I wanted to,"
4 referring to your stay in California."

:57AM

5 Do you remember telling Robert "I ended up
6 staying longer than I wanted to"?

7 A Yes.

8 q And that was a lie, you really didn't stay longer
9 in California, isn't that correct?

:58AM

10 A Correct.

11 q Now, in that same conversation, you told Robert
12 Blagojevich:

13 "I saw John Johnston on Friday of last week and
14 I gave him a deadline."

:58AM

15 And that was a lie, too, because you truly
16 never gave Mr. Johnston a specific deadline, isn't
17 that correct?

18 A I may have seen him, but I don't think I ever
19 gave him a specific deadline, no.

:58AM

20 q Right. So the statement, "I gave him," meaning
21 Mr. Johnston, "a deadline," that's a lie, right?

22 A Yes.

:59AM

23 q And you also had a similar conversation with the
24 governor wherein you said I gave Johnny Johnston a
25 deadline, did you not?

1 A I believe so. I don't recall specifically.

2 Q And that was a lie also, was it not?

3 A If that's what I told him, then yes.

4 Q Well, allow me to refresh your memory.

5 I'd ask you to look and just read to yourself
6 lines 7 through 11.

7 (Brief pause.)

8 BY MR. SOROSKY:

9 Q Just so we're clear, you also told Governor
10 Blagojevich "I gave Johnny Johnston a deadline," you
11 lied to the governor about that, didn't you?

12 A Again, basically what you showed me, I still
13 don't know whether I said that to him or not. What
14 that says is that I was misrepresenting my
15 conversations with John Johnston to the governor to
16 show that I was being more aggressive than I really
17 was.

18 Q Well, would you agree with me that
19 misrepresenting your conversations to be more
20 aggressive than you were was a lie?

21 A Yeah.

22 Q What?

23 A Yeah.

24 Q Then on November 20th, 2008, did you have a
25 conversation with Robert Blagojevich wherein you

1 said to him "I'm hoping to get checks today from
2 Johnston," and wasn't that a lie because you really
3 weren't expecting to get checks today from Johnston?

4 A I was hoping to.

5 q You were hoping to you, but you knew you wouldn't
6 get checks from Johnston, didn't you?

7 A I didn't think there was a likelihood but I was
8 hoping to.

9 q Well, you didn't say, "I'm hoping to get checks
10 from Johnston but it's not very likely," you
11 expressed it in such a way where that hope might be
12 reality, didn't you?

13 A Yes.

14 q So that was a lie, wasn't it?

15 A I was hoping to get the check that day.

16 q Now, on November 13th, did you have a
17 conversation with the governor where you said
18 Johnston was good for the contribution and he's
19 trying to figure out where to get the money? Do you
20 remember telling that to the governor in a telephone
21 conversation?

22 A I could've. Again, without looking at a
23 transcript, I can't remember specifically.

24 MR. SOROSKY: May I refresh his memory?

25 THE COURT: Yeah.

1 (Brief pause).

2 BY MR. SOROSKY:

3 q Now, in this telephone conversation you had the
4 with the governor on November 13th, did you say that
5 Johnston was good for the contribution and he,
6 Johnston, was trying to figure out where to get the
7 money, did you say that?

8 A Yes.

9 q And you certainly acknowledged that you were just
10 repeating old stale information, right?

11 A Correct.

12 q So that was a lie, was it not?

13 A Yes.

14 q Now, on December 2nd, 2008, you had a telephone
15 call with John Johnston, right?

16 A Yes.

17 q Just so we're clear, John Johnston is your
18 client, right?

19 A Yes.

20 q He's the owner of the racetrack, right?

21 A Right.

22 q And you told Mr. Johnston:

23 "Rod didn't turned my call last night at about
24 10:30."

25 Did you not?

1 A Yes.

2 Q And that was a lie, you hadn't spoken to the
3 governor at all, right?

4 A Right.

:05AM

5 Q In fact, to the best of your knowledge, the
6 governor was actually at a governor's conference in
7 Philadelphia the night before, wasn't he?

8 A Yes.

:06AM

9 Q Now, on December 3rd, 2008, you went to the FOB
10 office, is that correct?

11 A Yes.

12 Q And just so we're clear, December 3rd is the day
13 you had these potential or hypothetical
14 conversations with the governor as to how best to
15 approach and talk to John Johnston about getting the
16 contribution, right?

:06AM

17 A Yes.

18 Q And on December 3rd you actually did go to
19 Mr. Johnston's office, right?

:06AM

20 A Yes.

21 Q And the events of December 3rd were referred to
22 in your direct examination when you were questioned,
23 right?

24 A Yes.

:07AM

25 Q Now, in your in-person conversation with the

1 governor, did you say that you were going to
2 Oklahoma tomorrow for my dad's Army reunion?

3 A Yes.

4 q And you were telling your father -- excuse me.

:07AM

5 You were telling the governor that you had to take
6 your father to his old Army reunion because his
7 eyesight wasn't so good and he was so infirmed that
8 you had to take him, right?

9 A I didn't tell him all that.

:07AM

10 q But that was what was implied, correct?

11 A No.

12 q You were --

13 A I was going to go to his Army reunion with him.

14 q You were going to go to his Army reunion?

:07AM

15 A Yeah.

16 q And you wanted to be there with all these old
17 guys who were in the Army together, right? That's
18 what you're telling the ladies and gentlemen of the
19 jury, right?

:08AM

20 MR. NIEWOEHNER: Objection.

21 THE COURT: Don't use that phrase.

22 MR. SOROSKY: In fact --

23 THE COURT: Mr. Sorosky, Mr. Sorosky --

24 MR. SOROSKY: I apologize.

:08AM

25 THE COURT: He's not telling stuff, he's just

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1 answering your questions, and I don't really want to
2 repeat it that often.

3 MR. SOROSKY: I apologize. I apologize.

4 BY MR. SOROSKY:

:08AM

5 Q Now, and that was a lie, too, about going to your
6 father's Army reunion, wasn't it?

7 A Yes.

8 Q You, in fact, were going to the Dominican
9 Republic to play golf, right?

:08AM

10 A Yes.

11 Q And you wouldn't even tell that truthful
12 statement to your old friend, would you?

13 MR. NIEWOEHNER: Objection, Your Honor.

:08AM

14 THE COURT: To the form of the question,
15 sustained.

16 BY MR. SOROSKY:

:09AM

17 Q Now, on December 4th when you were at the Miami
18 airport going to the Dominican Republic, the
19 governor called you at the Miami airport and you had
20 a telephone conversation with him, correct?

21 A I don't remember whether he called me or I called
22 him.

23 Q And you said that you got in Johnston's face and
24 that Johnston was good for a donation, didn't you?

:09AM

25 A Right.

1 q That was a lie, too, because Johnston is in
2 Chicago and you're in Miami en route to the
3 Dominican Republic, right?

4 A I was referring to my meeting with him the
5 previous day.

6 q But that was a lie also, wasn't it?

7 A That I met with Johnston the previous day?

8 q No, that you got in his face.

9 A For me, it was pretty aggressive.

10 q Now, after the governor was charged and arrested,
11 you spoke to a man by the name of Hodge, did you
12 not, on the telephone?

13 MR. NIEWOEHNER: Objection, Your Honor.

14 MR. SOROSKY: Sustained.

15 BY MR. SOROSKY:

16 q Well, did you lie to Mr. Hodge when you said, "I
17 spoke to Blagojevich on Sunday"? Was that a lie?

18 A I don't know who Mr. Hodge is.

19 q Okay.

20 (Whereupon, there was a conference had:)

21 MR. SOROSKY: If I may refresh his memory?

22 THE COURT: Yeah.

23 (Brief pause.)

24 BY THE WITNESS:

25 A I know now who Mr. Hodge is. If you could repeat

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1 the question.

2 BY MR. SOROSKY:

3 q This phone call was perhaps the last taped
4 telephone call and you spoke to Mr. Hodge, right?

5 MR. NIEWOEHNER: Objection, Your Honor.

6 THE COURT: Sustained.

7

8 BY MR. SOROSKY:

9 q And did you tell Mr. Hodge you talked to
10 Blagojevich on Sunday?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 THE COURT: Sustained.

13 BY MR. SOROSKY:

14 q And you told all those lies to benefit yourself,
15 didn't you?

16 A Yes.

17 THE COURT: This is going to take some time?

18 MR. SOROSKY: We can take a break.

19 THE COURT: Yeah, this is a real break as
20 opposed to the earlier fake break.

21 THE MARSHAL: All rise.

22 (The following proceedings were had out of the
23 presence of the jury in open court:)

24 THE COURT: 11:25.

25 You can step down.

1 (Brief pause).

2 MR. SOROSKY: You want to take this up when
3 we come back? Just some minor issue.

4 THE COURT: Are we all agreed on what we're
5 talking about?

6 MR. NIEWOEHNER: It's just a timeline that
7 they have.

8 MR. SOROSKY: There's a little chart that we
9 have.

10 THE COURT: Let's do it when we come back so
11 everybody is on it.

12 MR. SOROSKY: All right.

13 (Recess.)

14 (The following proceedings were had out of the
15 presence of the jury in open court:)

16 COURT'S LAW CLERK: Please remain seated.

17 THE COURT: Counsel approach.

18 (Brief pause).

19 MR. NIEWOEHNER: Your Honor, there's, I
20 guess, a potential exhibit that they may want to
21 show to the jury.

22 MR. SOROSKY: Yes.

23 MR. NIEWOEHNER: Which --

24 THE COURT: Where is it? Always helpful if I
25 can look at it.

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1 (Brief pause).

2 THE COURT: Okay.

3 MR. NIEWOEHNER: I mean, he doesn't know the
4 length of time of the wiretapping.

:36AM

5 THE COURT: I'm looking at it here, is this
6 the whole thing or can you scroll down? That it's?

7 MR. SOROSKY: That's it.

8 THE COURT: Okay.

:36AM

9 MR. SCHAR: We know Mr. Monk is testifying,
10 I'm not sure what relevance.

11 MR. NIEWOEHNER: Also not accurate in terms
12 of the timeline with his cooperation with the
13 government.

:37AM

14 THE COURT: And what use are you going to
15 make of this?

16 MR. SOROSKY: Pardon me?

17 THE COURT: What use are you going to make of
18 this?

:37AM

19 MR. SOROSKY: I just want to ask Mr. Monk if
20 this is accurate, that first the wiretapping
21 occurred, then Rod was charged, then he, Mr. Monk,
22 cooperated with the government, and then he
23 testified; just one, two, three, four. I mean, I
24 don't think --

:37AM

25 THE COURT: You can keep it up there for two

1 minutes.

2 MR. NIEWOEHNER: On the wiretapping, this
3 isn't helping him --

4 THE COURT: Oh. Wait. Wait.

5 MR. SOROSKY: Well, that --

6 THE COURT: No, finish your thought.

7 MR. NIEWOEHNER: Mr. Monk has no knowledge of
8 when the wiretapping took place, and it's not
9 relevant. I mean, I don't know what the relevance
10 is for this witness, but it shouldn't be there.

11 The date of Mr. Blagojevich being charged, I
12 guess is fine.

13 The third one is accurate, the dates are
14 wrong. He hadn't stopped in April of 2009 nor did
15 he actually start in December of 2008.

16 And the fourth one is self-evident.

17 THE COURT: Okay. He's saying it's factually
18 wrong.

19 MR. SOROSKY: I don't think -- well, there's
20 no doubt the wiretapping occurred from those dates,
21 I mean, that's factually correct.

22 MR. NIEWOEHNER: But not through this
23 witness.

24 MR. SOROSKY: I don't know what -- if it's
25 the fall of 2008 --

1 THE COURT: But what does this have to do
2 with this witness? What is the point you're trying
3 to make with respect to the witness?

4 MR. SOROSKY: What is the point we're trying
5 to make? We just want to establish that first there
6 was wiretapping, then the governor was charged, then
7 Mr. Monk cooperates with the government, and then he
8 testifies.

9 THE COURT: Okay. But if the dates -- why do
10 you need the dates for? If you're concerned with
11 the order of it --

12 MR. SOROSKY: Well, I mean, the dates, how
13 would the government want to amend the dates? I
14 mean, we're not saying October 2nd to December 9 are
15 necessarily vital magic dates --

16 THE COURT: All right, I'll tell you what
17 we're going to do --

18 MR. SOROSKY: I mean, those are the dates the
19 wiretapping occurred.

20 THE COURT: What we're going to do is, since
21 I now understand how you want to use this, you
22 really don't need him on the witness stand, you
23 don't have to show it to him on the witness stand.
24 If it's some kind of demonstrative exhibit you want
25 the use in closing argument where there's no dispute

1 about the dates, okay. It'll be a short period of
2 time, but it's okay. And there's really no factual
3 dispute.

4 MS. KAESEBERG: Would you be okay if we
5 changed the first section, instead of saying
6 "wiretapping," say "phone calls with Monk"?
: 39AM

7 THE COURT: I might be okay with all of this
8 stuff, the only thing is I don't think you need
9 him on this.

10 MS. KAESEBERG: Well, what I'm saying is,
11 with him on the stand, I think it would be
12 appropriate if said with the number one bullet
13 point, "overheard calls between Monk and
14 Blagojevich," and then have those dates up there,
15 that would -- you know, certainly, he's already
16 testified about those dates and those occurrences.
: 40AM

17 THE COURT: It's not -- it's the kind of
18 thing that like a summary you can use in closing
19 argument, facts that aren't in dispute. It's a
20 little different from the government's timeline
21 because the government's timeline is much longer and
22 much more complex. This seems to be fairly simple
23 and I think we can work something out so you can put
24 it up on the screen for a few moments and that's
25 fine, but not now.
: 40AM

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1 MR. NIEWOEHNER: Your Honor, can --

2 THE COURT: Okay.

3 THE MARSHAL: All rise.

4 (The following proceedings were had in the
5 presence of the jury in open court:)

6 THE COURT: Please be seated.

7 You may proceed.

8 MR. SOROSKY: Thank you.

9 BY MR. SOROSKY:

10 q Okay, Mr. Monk, let's get into the topic now of
11 the road builders and Mr. Krozel, okay.

12 Now, although you were a lobbyist, you did
13 not represent Mr. Krozel or the road builders, isn't
14 that correct?

15 A Correct.

16 q And in, let's say, the early fall of 2008, you
17 received the assignment from the governor to try to
18 receive a campaign contribution from the road
19 builders, would that be correct?

20 A Yeah.

21 q And did you know Mr. Krozel before the fall
22 of 2008?

23 A Yes.

24 q And for how long had you known him?

25 A I --

1 q Approximately.

2 A I may have met him back in 2002. We weren't --

3 q So you really didn't --

4 A -- that close.

5 q I didn't mean to cut you off.

6 So you really didn't have much of a
7 relationship with him, you just happened to know who
8 he was, would that be a fair statement?

9 A A little bit more than that. I mean, you know,
10 we'd shake hands and make small talk, and that kind
11 of thing, but, I mean, our paths weren't crossing
12 all the time.

13 q Now, as best you could recall and remember, and
14 I'm just asking, were you at some fundraising
15 meeting where the topic of Mr. Krozel and the road
16 builders came up and you were assigned to him? If
17 you know, how did it come about?

18 MR. NIEWOEHNER: Objection.

19 THE COURT: Objection to the form, sustained.

20 BY MR. SOROSKY:

21 q When and where, if you know, did you first
22 receive this assignment of trying to obtain a
23 contribution from the road builders, if you know or
24 best --

25 A I don't recall specifically, but in all

Monk - cross by Sorosky

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1 likelihood it was in a meeting, a fundraising
2 meeting, or a separate conversation I had with Rod.
3 q And was this at the meeting where Rod told you he
4 was going to announce the 1.8 billion-dollar tollway
5 project or was it before that?

: 45AM

6 MR. NIEWOEHNER: Objection; foundation.

7 BY MR. SOROSKY:

8 q The meeting where you first received this
9 assignment.

: 45AM

10 A It was before that.

11 q Before that?

12 A Yeah.

13 q So before that meeting, Rod tells you that your
14 assigned was to attempt to get a contribution from
15 the road builders, is that correct?

: 45AM

16 A Yeah. I mean, he could've told me or I could've
17 said, you know, I'll take that over, or something to
18 that effect, but it was before the meeting.

19 q So pursuant to this assignment, you did begin
20 conversations with the road builders, did you not,
21 to attempt to get contributions?

: 45AM

22 MR. NIEWOEHNER: Objection and beyond the
23 scope.

24 THE COURT: Yeah.

: 46AM

25 BY MR. SOROSKY:

1 q Okay. After the assignment, whenever the
2 assignment was, you said you don't remember the
3 exact date but you thought it was the fall of 2008,
4 after that assignment did you begin to contact the
5 road builders to try to get contributions?

: 4 6AM

6 A My best recollection is, the first time that we
7 asked Jerry for money was in that meeting.

8 q So even though you had the assignment, you're
9 saying you really didn't do anything until you
10 brought Jerry to the meeting, would that be
11 correcting?

: 4 6AM

12 A Well, I set up the meeting or asked someone to
13 set up the meeting because the goal was to set up a
14 meeting for Rod and Jerry to meet.

15 q And do you know or do you remember the date that
16 this meeting you had with Mr. Krozel?

: 4 6AM

17 A I don't remember the specific date.

18 q But would it be fair to say it was in, say,
19 September of 2008?

20 A I'd say late summer, early fall of 2008.

: 4 7AM

21 q And present at this meeting were you, the
22 governor, and Mr. Krozel, correct?

23 A Right; and Rod's brother, Robert.

24 q Rod's brother was there, too. And this was at
25 the campaign office?

: 4 7AM

1 A Correct.

2 q And it was at this meeting where the governor
3 explained to Jerry Krozel that he was going to
4 announce the 1.8 billion dollar tollway project,
5 right?

6 A Yes.

7 q Now, and at the end of this meeting, did not the
8 governor say: Jerry, is there anything you could do
9 to help us with the contribution by the end of the
10 year?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 THE COURT: You're asking literally?

13 MR. SOROSKY: Not literally, did he say
14 something along those lines.

15 BY THE WITNESS:

16 A Yes.

17 BY MR. SOROSKY:

18 q And did the governor also mention that we have a
19 fundraising push coming up?

20 A He might. I don't remember that specifically,
21 but he might have, yeah.

22 q And did the governor also mention the ethics
23 bill?

24 A Yes.

25 q And did he say to Jerry Krozel: Look, I've got

1 good news for you and bad news for you, I'm asking
2 you for a contribution, but you won't have to give
3 anymore thereafter because the ethics bill means you
4 won't have to give anymore after the first of year?
5 Did he say something along those lines?

6 A Yes.

7 MR. NIEWOEHNER: Objection, Your Honor.

8 THE COURT: The answer may stand.

9 BY MR. SOROSKY:

10 q And the governor had already indicated to
11 Mr. Krozel that he was announcing the 1.8
12 billion-dollar program, right?

13 A Yes.

14 q The governor did not say to Jerry Krozel: You
15 know, Jerry, I could announce this program but I'm
16 only going to announce this program if you guys come
17 up with a contribution? He didn't say that, did he?

18 MR. NIEWOEHNER: Exact words, Your Honor?

19 MR. SOROSKY: Generally. I don't mean those
20 exact words.

21 MR. SCHAR: Objection.

22 THE COURT: Sustained.

23 BY MR. SOROSKY:

24 q Well, did he say those exact words, then?

25 A No.

1 q So just so we're clear, the governor's
2 conversation with Mr. Krozel is: I'm announcing the
3 program, can you make a contribution, we'd like it
4 by the end of the year, and he mentions the ethics
5 bill that if you can get it in by the end of the
6 year, then you won't have to give anymore because I
7 can't get anymore contributions from you, right?

8 MR. NIEWOEHNER: Objection.

9 THE COURT: I'm sustaining the objection.
10 The question has been already asked and already
11 answered.

12 MR. SOROSKY: Okay. Okay.

13 BY MR. SOROSKY:

14 q Did Mr. Krozel say he would love to help, he
15 wanted to help if he could, and then did he explain
16 the financial problems that the industry was going
17 through?

18 A Yes.

19 q Did the governor then say, when he got that sort
20 of answer: well, forget it, I'm not announcing the
21 program?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: Sustained.

24 BY MR. SOROSKY:

25 q Did he say that? Or sorry.

1 After Krozel indicated that he'd love to help
2 but it would be difficult because of financial
3 problems, did the governor say anything to back off
4 on the program?

5 MR. NIEWOEHNER: Objection, Your Honor.

6 THE COURT: Sustained.

7 BY MR. SOROSKY:

8 Q Well, what did the governor say after Mr. Krozel
9 said he would love to help but it would be difficult
10 because of financial problems?

11 A Is there anything he, the governor, could do to
12 help Jerry raise the money.

13 Q And what did Mr. Krozel say?

14 A Yes.

15 Q What did he say?

16 A It would it be helpful to meet with the new
17 president of his company, maybe have a lunch with
18 him.

19 Q And did, in fact, the governor not meet with the
20 new president of the company?

21 A He did.

22 Q And you were at that meeting, right?

23 A Yes.

24 Q And there wasn't any fundraising talk at that
25 meeting, was there?

1 A Not that I remember, no.

2 q And then you also met with Mr. Krozel on
3 November 24th at a restaurant called the Plush Pub,
4 is that correct?

5 A Correct.

6 q And was this before or after you met with
7 Mr. Krozel, the governor, and the new bosses of the
8 company for that luncheon dinner?

9 A It was after.

10 q After.

11 So just so we're clear, there were three
12 meetings that the governor had with Mr. Krozel,
13 isn't that correct, sir?

14 MR. NIEWOEHNER: Objection, Your Honor.

15 MR. SOROSKY: Strike that.

16 BY MR. SOROSKY:

17 q There were two meetings the governor had with
18 Mr. Krozel, right?

19 A In that time frame.

20 q Yes, in that frame.

21 The first one was at the office when he asked
22 for the contribution and the second one was at the
23 luncheon dinner with the new bosses, right?

24 A Correct.

25 q And there were three meetings that you had with

1 Mr. Krozel, right?

2 A Including the one with Rod and including the one
3 with the president?

4 Q Right.

5 A There were more than that.

6 Q More than that?

7 A Yeah.

8 Q And in these meetings with Mr. Krozel, you, of
9 course, asked Mr. Krozel for contributions, right?

10 A Asked him how he was doing on the contributions,
11 yeah.

12 Q And you had telephone calls with Mr. Krozel where
13 you were asking him for contributions, did you not?

14 A Yeah, how he was doing on fundraising. The ask
15 had already been made.

16 Q Right.

17 And to the best of your knowledge, Mr. Krozel
18 certainly understood that you were making these
19 requests for money for campaign contributions on
20 behalf of the governor, didn't you say so?

21 A Yes.

22 Q Now, did you ever once say to Mr. Krozel: You
23 know, Jerry, I know the governor, if you don't -- if
24 you guy don't come up with a contribution, you're
25 not going to get this tollway program?

1 MR. NIEWOEHNER: Objection, Your Honor.

2 THE COURT: Sustained.

3 BY MR. SOROSKY:

4 q Did you ever say anything to Mr. Krozel to
5 indicate that the governor would not do the program
6 if he didn't give a contribution, if the road
7 builders didn't give a contribution?

8 THE COURT: Sustained. Based on the evidence
9 in this case, sometimes that might be okay, but it
10 doesn't mesh with anything else here.

11 BY MR. SOROSKY:

12 q Well, collectively, in all your conversations
13 with Mr. Krozel, why don't you tell the ladies
14 and gentlemen of the jury what you told him?

15 MR. NIEWOEHNER: Objection, Your Honor.

16 THE COURT: Objection to form is sustained.

17 BY MR. SOROSKY:

18 q Well, what did you tell Mr. Krozel in your
19 conversations with him?

20 MR. NIEWOEHNER: Objection, Your Honor.

21 THE COURT: The objection is sustained.

22 BY MR. SOROSKY:

23 q Well, after you had your first meeting, after
24 this original meeting at the Governor's office where
25 the governor asked for the contribution and the

1 governor asked you to follow up, what did you tell
2 Mr. Krozel?

3 MR. NIEWOEHNER: Objection, Your Honor.

4 THE COURT: I think he's answered those
5 questions.

6

7 BY MR. SOROSKY:

8 Q Now, this famous line or famous comment where the
9 governor told you "if they don't perform f' 'em, I
10 won't do the project," when the governor told that
11 to you, who was present?

12 A Just me.

13 Q Mr. Krozel wasn't there, was he?

14 A No.

15 Q And you never related that comment to Mr. Krozel,
16 did you?

17 A No.

18 Q And you never heard the governor say that to
19 Mr. Krozel?

20 A No.

21 Q And you know the governor in his speech and
22 colloquy uses profanity a lot, doesn't he?

23 A In conversations, yeah.

24 Q This is just something the governor said to you,
25 right? Just two ol' pals, right?

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1 MR. SCHAR: Objection, Your Honor.

2 THE COURT: To the form of the question,
3 sustained.

4 BY MR. SOROSKY:

5 q Well, this is just a comment the governor said to
6 you, right?

7 MR. NIEWOEHNER: Objection, Your Honor.

8 THE COURT: You're characterizing it as "just
9 a comment." This witness is first asked if there
10 was a comment made to him, and that question would
11 be fine.

12 BY MR. SOROSKY:

13 q Now, did you know of any threat made to
14 Mr. Krozel to contribute?

15 MR. NIEWOEHNER: Objection, Your Honor.

16 THE COURT: I think you already covered this
17 with respect to your client, so maybe you want to
18 rule out the rest of the world with which I permit
19 you to do.

20 BY MR. SOROSKY:

21 q Do you know of any intimating words spoken to
22 Mr. Krozel by Governor Blagojevich to compel him to
23 make a contribution?

24 MR. SCHAR: Objection.

25 THE COURT: Sustained.

Monk - cross by Sorosky

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1 BY MR. SOROSKY:

2 Q Now somewhere in your conversations with the
3 governor you told the governor that Krozel can't
4 come up with half a million dollars, right?

5 A Yes.

6 Q I believe you first said the governor said to
7 you, I'm going to announce this 1.8 billion-dollar
8 program, I would like Krozel and the -- I would like
9 Krozel and the road builders to do a fundraiser and
10 raise half a million, isn't that, in summary, what
11 the governor said?

12 MR. NIEWOEHNER: Objection.

13 THE COURT: To the form, it's sustained.

14 BY MR. SOROSKY:

15 Q Let's go back to this original meeting you had
16 with the governor, the original meeting that you had
17 with the governor where you were given the
18 assignment.

19 Did he say at that meeting he's going to
20 announce the 1.8 billion-dollar program and he would
21 like the road builders to have fundraisers and raise
22 half a million-dollar dollars?

23 MR. NIEWOEHNER: Objection, Your Honor.

24 THE COURT: Compound question.

25 BY MR. SOROSKY:

1 q I'll ask one at a time.

2 At this first original meeting, did the
3 governor tell you he was going to announce 1.8
4 billion-dollar program?

:02PM

5 MR. NIEWOEHNER: Foundation, Your Honor.

6 THE COURT: Yeah.

7 BY MR. SOROSKY:

:02PM

8 q At the original meeting that you were at with the
9 governor, and I think you said Robert Blagojevich
10 may have been there, it was a general fundraising
11 meeting where you were given the assignment to raise
12 money from the road builders, did the governor tell
13 you that he was going to announce a 1.8
14 billion-dollar program?

:02PM

15 MR. NIEWOEHNER: Objection to scope.

16 THE COURT: Overruled. You can answer.

17 BY THE WITNESS:

:02PM

18 A So, again, I don't know whether it was a meeting
19 that I had with he and Robert when road builders
20 were assigned to me. It may have been just a
21 conversation that I had with him that he raised the
22 topic or I may have raised the topic, so I don't
23 know whether it was a meeting or not.

:03PM

24 But when we talked about fundraising from the
25 road builders originally, I'm sure I'd even heard

1 about the tollway program.

2 q So you're saying he first asked you to raise
3 money from the road builders without even mentioning
4 the tollway project, right?

5 A Right.

6 q And I believe your testimony was that you really
7 didn't act on raising money immediately after you
8 were given that assignment, correct?

9 MR. NIEWOEHNER: Objection, Your Honor.

10 THE COURT: The objection is sustained.

11 BY MR. SOROSKY:

12 q And it was sometime thereafter that you brought
13 Jerry Krozel to this meeting, is that correct?

14 A Sometime after it was determined that I was going
15 to be the point person for raising money from the
16 road builders, we set up the meeting for Jerry
17 Krozel and Rod.

18 q And it was at this meeting that Jerry Krozel
19 asked for -- that the governor asked Jerry Krozel
20 for the contribution, right --

21 MR. NIEWOEHNER: Objection, Your Honor.

22 BY MR. SOROSKY:

23 q -- at the fundraiser?

24 THE COURT: The objection is sustained.

25 BY MR. SOROSKY:

1 q And I believe you said the governor's words at
2 that meeting were, "Jerry, can you do anything to be
3 helpful by the end of the year"?

4 MR. NIEWOEHNER: Objection; asked and
5 answered.

6 THE COURT: Asked and answered.

7 BY MR. SOROSKY:

8 q And that's when -- okay.

9 Now, this comment when the governor said, "if
10 they don't perform f' them" and all that, Krozel
11 wasn't there for any of that, was he?

12 A No.

13 q And was it at this meeting you had with
14 Mr. Krozel at the Plush Pub on November 24th when
15 Mr. Krozel told you that he couldn't raise anything
16 near half a million dollars?

17 MR. NIEWOEHNER: Objection, Your Honor.

18 THE COURT: Sustained.

19 BY MR. SOROSKY:

20 q What did Mr. Krozel tell you at the Plush Pub
21 meeting on November 24th?

22 A We talked about his idea for a gas tax, he talked
23 --

24 q Other than --

25 A -- he talked about -- I asked him how he was

1 doing in fundraising. You know, he led me to
2 believe that he was working on it and was making
3 some progress.

4 Q So when did Mr. Krozel tell you he couldn't come
5 anywhere near that half a million dollars?

6 A He didn't tell me that.

7 Q You just told that to the governor, right?

8 A Correct.

9 Q And when you told that to the governor, did the
10 governor say: well, that's it, I'm not doing the
11 5-billion-dollar program?

12 MR. NIEWOEHNER: Objection, Your Honor.

13 THE COURT: The objection is sustained.

14 BY MR. SOROSKY:

15 Q What did the governor say when you told him that?
16 What did the governor say when you told the governor
17 Krozel is never going to come anywhere near half a
18 million dollars?

19 A That, you know, can they do 100, do you think
20 they'd be able to raise a hundred.

21 Q So would I be correct in saying, really all the
22 governor wanted was to raise contributions, right?

23 MR. NIEWOEHNER: Objection, Your Honor.

24 THE COURT: The objection is sustained.

25 BY MR. SOROSKY:

1 q Isn't it true that governor just wanted to raise
2 contributions? He didn't want to intimidate anyone?

3 MR. NIEWOEHNER: Objection, Your Honor.

4 THE COURT: The objection is sustained.

5 BY MR. SOROSKY:

6 q How many conversations did you have with
7 Mr. Krozel, let's say, both in person or over the
8 telephone during this period of time when you were
9 attempting to either get a contribution from him or
10 have the whole road builders group do a fundraiser,
11 or whatever? How many conversations did you have
12 with Mr. Krozel, approximately?

13 A 5 to 7.

14 q Did, Mr. Krozel ever tell you, "hey, Lon, you
15 guys are intimating me," or anything like that?

16 MR. NIEWOEHNER: Objection.

17 THE COURT: This is good thing to say in
18 closing argument, not so good to say now and put
19 into a question. I'm sustaining the objection.

20 BY MR. SOROSKY:

21 q When Mr. Krozel asked the governor to meet with
22 his new bosses, the governor did, right?

23 A Yes.

24 q The governor didn't say, "hey, Jerry, it sure
25 would help if the new bosses gave us a

1 contribution," did he?

2 MR. NIEWOEHNER: Objection, Your Honor.

3 THE COURT: The objection is sustained.

4 BY MR. SOROSKY:

5 q Now, there certainly was an announcement of the
6 1.8 billion-dollar program, correct?

7 A Correct.

8 q And when this announcement was made, the governor
9 had not received one cent in contributions from the
10 road builders, did he?

11 MR. NIEWOEHNER: Objection, Your Honor.

12 THE COURT: The objection is sustained.

13 BY MR. SOROSKY:

14 q Now, do you remember the topic of the capital
15 bill?

16 A Yes.

17 q And just so we're clear, the capital bill was a
18 bill that would build roads and bridges and schools
19 and maybe hospitals, and so forth, all over the
20 state, right?

21 A Correct.

22 q That would be distinguished from the tollway
23 project which only involved the tollways, correct?

24 A Correct.

25 q And the way the tollways were located or where

1 the tollways are located, a tollway project would
2 really only benefit the people in the extreme
3 northern end of the state, correct? In the
4 Chicagoland area, basically, because that's where
5 most of the tollways are, right? where the tollways
6 are?

7 MR. NIEWOEHNER: Objection, Your Honor.

8 THE COURT: The objection is sustained.

9 BY MR. SOROSKY:

10 q well, wasn't that one of the concerns that the
11 governor had, that the tollway project would just
12 benefit the people at the northern end of the state
13 wheres the capital bill would help the people all
14 over the state?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: The objection is sustained.

17 BY MR. SOROSKY:

18 q And to the best of your knowledge, the governor
19 wanted the capital bill to pass, right?

20 MR. NIEWOEHNER: Objection, Your Honor.

21 BY THE WITNESS:

22 A Yes.

23 THE COURT: what?

24 MR. NIEWOEHNER: Objection.

25 THE COURT: The objection is sustained. I

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1 mean, you can introduce evidence of this but not
2 from him.

3 BY MR. SOROSKY:

4 q And the capital bill and the tollway project were
5 discussed with Mr. Krozel, were they not?

6 A Yes.

7 q And it was Mr. Krozel's belief that the capital
8 bill wouldn't likely pass, correct, because --

9 MR. NIEWOEHNER: Objection.

10 THE COURT: Sustained.

11 BY MR. SOROSKY:

12 q The main opponent to the capital bill was Speaker
13 Madigan, right?

14 MR. NIEWOEHNER: Objection.

15 THE COURT: Sustained.

16 BY MR. SOROSKY:

17 q But if there was this deal on the senate seat
18 between Speaker Madigan and the governor --

19 MR. NIEWOEHNER: Objection.

20 MR. SOROSKY: -- then the capital bill might
21 have passed, right?

22 THE COURT: Mr. Sorosky, don't do this again.
23 There are ways you can deal with this, I've informed
24 you of what they are, but asking this witness is
25 inappropriate. And unless you have something that

1 is appropriate, maybe you want to consider sitting
2 down. I'm not ordering you to sit down.

3 BY MR. SOROSKY:

4 q Let's get into the racetrack.

5 Now, you were on assignment from the governor
6 to get a contribution from Mr. Johnston and the
7 racetrack bill industry, right?

8 MR. NIEWOEHNER: Objection, Your Honor;
9 compound.

10 THE COURT: Yeah, apart from that. Yeah,
11 compound question.

12 BY MR. SOROSKY:

13 q You were on assignment from the governor to get a
14 contribution from the racetrack industry, is that
15 true?

16 A No; just from the Johnstons.

17 q What?

18 A From the Johnstons.

19 q From the Johnstons?

20 A Right.

21 q And you also were a lobbyist representing the
22 Johnstons, correct?

23 A Yes.

24 q And as this request for a contribution was
25 planned out, it became apparent that the governor

1 wanted a contribution and the Johntsons were a
2 little hesitant in giving the contribution, correct?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: You are asking for an opinion
5 that I'm not going to permit. The objection is
6 sustained.

7 BY MR. SOROSKY:

8 Q Well, the governor continuously kept asking for a
9 contribution, right?

10 A He kept asking me for the status of getting a
11 contribution from the Johntsons, yes.

12 Q And the governor wanted a contribution, right?

13 A Yes.

14 Q And you kept asking Johnston for contributions,
15 right?

16 A For the status of the contribution, yeah.

17 Q And Johnston, bottom line, was not coming up with
18 any contribution, was he?

19 MR. NIEWOEHNER: Objection, Your Honor.

20 THE COURT: Objection to the form is
21 sustained.

22 BY MR. SOROSKY:

23 Q Johnston had not given a contribution or wasn't,
24 correct?

25 A During that period of time, yes.

1 q what?

2 A During that period of time, yes.

3 q Okay. So weren't you in a conflict there in that
4 Mr. Blagojevich is asking you, as a friend, to get a
5 contribution --

6 MR. NIEWOEHNER: Objection, Your Honor.

7 MR. SOROSKY: -- and your client --

8 THE COURT: Mr. Sorosky --

9 MR. SOROSKY: -- your client doesn't want to
10 give a contribution?

11 THE COURT: Mr. Sorosky, it's beyond the
12 scope.

13 MR. SOROSKY: Pardon me?

14 THE COURT: It's beyond the scope.

15 BY MR. SOROSKY:

16 q Now, on September 12th, 2008, do you remember
17 being at a fundraising meeting at Friends of
18 Blagojevich office?

19 A Not -- not specifically. I mean, there could've
20 been. I don't remember on that day.

21 q Well, without seizing on that specific date, you
22 certainly were at a fundraising meeting -- you
23 certainly attended fundraising meetings at the
24 Blagojevich campaign office in September of 2008,
25 right?

1 A Yes.

2 q And you went over lists of prior donors, is that
3 correct?

4 A Yes.

5 q And do you remember Mr. Johnston being on the
6 list as a donor or prospective donor to give a
7 contribution as early as September of 2008?

8 MR. SCHAR: Objection to scope.

9 THE COURT: Sustained. Rephrase it.

10 BY MR. SOROSKY:

11 q Do you remember Johnston, do you remember
12 Mr. Johnston being listed or talked about as a
13 prospective donor in September of 2008?

14 MR. NIEWOEHNER: Objection.

15 THE COURT: He can answer that one.

16 BY THE WITNESS:

17 A Not specifically, but I would they were -- he was
18 on the list of September 8 when we were going over
19 the fundraising lists.

20 BY MR. SOROSKY:

21 q I believe your answer was -- well, just so I'm
22 clear, what was your answer to my question whether
23 Johnston was on the list?

24 THE COURT: Why don't we have it read back.

25 MR. SOROSKY: What?

1 THE COURT: why don't we have it read back.

2 MR. SOROSKY: The question and answer read
3 back, please.

4 (Record read.)

5 MR. SOROSKY: Could I refresh his memory?

6 THE COURT: With respect to what?

7 MR. SOROSKY: well, the assumption, maybe we
8 could clarify the assumption.

9 MR. NIEWOEHNER: Objection, Your Honor.

10 THE COURT: I think you got the answer.

11 MR. SOROSKY: what?

12 THE COURT: I think you got the answer.

13 MR. SOROSKY: Okay.

14 BY MR. SOROSKY:

15 q So could we agree that Mr. Johnston was a
16 prospective donor on the list in September?

17 A Yeah.

18 q And when he was a prospective donor back in
19 September, there wasn't any talk about the Recapture
20 Bill or money going from casinos to racetracks, was
21 there?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: Sustained.

24 (Brief pause.)

25 THE COURT: I sustained, it.

1 MR. SOROSKY: All right.

2 BY MR. SOROSKY:

3 Q And this list --

4 Now, didn't Mr. Johnston make a commitment to
5 make a contribution in September of 2008?

6 THE COURT: The problem with that question
7 is, did he make a commitment to give a contribution
8 at some date or did he make a commitment to give
9 something in September. You better parse that
10 question out.

11 MR. SOROSKY: Okay.

12 BY MR. SOROSKY:

13 Q I ask you to answer the question the way the
14 judge has --

15 THE COURT: You can't do that.

16 MR. SOROSKY: Oh, I can't do that.

17 You can see I want the help.

18 THE COURT: Yeah.

19 BY MR. SOROSKY:

20 Q Okay, let's do it piecemeal.

21 First, did Mr. Johnston make a commitment to
22 make a contribution, and then we'll get into when
23 and where the commitment was.

24 THE COURT: Well, it might be useful to ask
25 if he made a commitment to him, because otherwise

1 the question might call for hearsay.

2 BY MR. SOROSKY:

3 q Did Mr. Johnston make a commitment to you in
4 September to make a contribution?

5 A No.

6 q He did not.

7 Did he make a commitment to Rod?

8 MR. NIEWOEHNER: Objection to the scope.

9 BY MR. SOROSKY:

10 q If you know?

11 THE COURT: The objection is sustained.

12 MR. SOROSKY: Well, may I show --

13 MR. NIEWOEHNER: Your Honor, there's nothing
14 to impeach.

15 THE COURT: No.

16 MR. SOROSKY: If I could show Your Honor?

17 THE COURT: No, I know what you're talking
18 about and you can't ask the question the way you're
19 asking it.

20 BY MR. SOROSKY:

21 q Now, when did you first get the assignment to
22 seek a contribution from the Johntsons?

23 MR. NIEWOEHNER: Objection; time.

24 MR. SOROSKY: In 2008, of course.

25 BY THE WITNESS:

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1 A Ah --

2 BY MR. SOROSKY:

3 Q If you know?

4 A I don't remember specifically. You know,
5 probably in the summer or fall of 2008.

6 Q And as best you can recall, do you remember what
7 did the governor tell you?

8 MR. NIEWOEHNER: Objection.

9 THE COURT: Sustained.

10 BY MR. SOROSKY:

11 Q And after getting that assignment, what did you
12 say to Johnston?

13 MR. NIEWOEHNER: Objection.

14 THE COURT: Sustained.

15 BY MR. SOROSKY:

16 Q Did you attempt to obtain a contribution from
17 Johnston?

18 A Yes.

19 Q Tell the ladies and gentlemen of the jury what
20 you did, how you went about trying to get a
21 contribution?

22 MR. NIEWOEHNER: (Counsel standing.)

23 THE COURT: Maybe we're getting a little
24 weary and we should have the lunch break.

25 MR. SOROSKY: Okay.

1 THE MARSHAL: All rise.

2 (The following proceedings were had out of the
3 presence of the jury in open court:)

4 THE COURT: 1:40.

5 THE MARSHAL: This court will suspend until
6 1:40 p.m. today.

7 (The following proceedings were had out of the
8 presence of the jury in open court:)

9 THE COURT: We are in recess.

10 Counsel, I'll see you about 1:30.

11

12 (Luncheon recess taken from 12:26 o'clock p.m.
13 to 1:30 o'clock p.m.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Government,

vs.

ROD BLAGOJEVICH,

Defendant.

No. 08 CR 888

Chicago, Illinois

May 18, 2011

1:30 o'clock p.m.

Volume 17

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL AND a JURY
(Excerpt - Page numbers should not be
cited in appellate record.)

For the Government:

THE HONORABLE PATRICK J. FITZGERALD,
UNITED STATES ATTORNEY

BY: Reid J. Schar

Carrie E. Hamilton

Christopher Niewoehner

Assistant United States Attorneys

219 South Dearborn Street

Suite 500

Chicago, Illinois 60604

Court Reporter:

Blanca I. Lara, CSR, RPR
219 South Dearborn Street
Room 2504

Chicago, Illinois 60604

(312) 435-5895

1 APPEARANCES (continued:)

2

3 For Defendant Rod Blagojevich:

4 KAPLAN & SOROSKY
5 BY: Sheldon M. Sorosky
6 158 West Erie
Chicago, Illinois 60610
(312) 640-1776

7

8 LAW OFFICE OF Elliott Riebman
BY: Elliott Riebman
9 158 East Erie
Chicago, Illinois 60610
(847) 814-2900

10

11

12 OFFICES OF AARON B. GOLDSTEIN
BY: Aaron Benjamin Goldstein
13 6133 South Ellis
Chicago, Illinois 60637
(773) 752-6950

14

15 OFFICES OF LAUREN FAUST KAESEBERG
BY: Lauren Faust Kaeseberg
16 2140 N. Lincoln Park West
Suite 307
Chicago, Illinois 60614
17 (773) 517-0622

18

19

20

21

22

23

24

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1 (The following proceedings were had out of the
2 presence of the jury in open court:)

3 THE COURT: Any time.

4 MR. SCHAR: Judge, what happened this morning
5 was just way, way over the top in terms of these --
6 I mean, it's hard to pick one particularly obvious
7 example because there were so many, but the one
8 about the Madigans and the senate seat, I mean,
9 Mr. Sorosky knows, he knows, how to ask proper
10 questions.

11 what this has turned into is a litany of
12 questions, which I'll assume were asked in good
13 faith, but really rise into closing argument. I
14 would point out, you instructed him many times why
15 certain questions were improper, but perhaps the
16 highlight of it was Mr. Wyma's recross in which
17 Mr. Sorosky asked several questions about what was
18 in the defendant's head, there was an objection, you
19 explained to him they're improper questions, and you
20 tell him he could ask Mr. Wyma's understanding.
21 And, sure enough, he doesn't want Mr. Wyma's
22 understanding, he just wants to make the argument,
23 he won't ask the question, he sits down.

24 Here we are back today spending the better
25 part of the morning with the government having to

1 either cut him off or allow the question to go and
2 then object to it knowing full well it's never going
3 get to the witness.

4 And, Judge, we've been paying attention,
5 there are certain jurors who are actually writing
6 down the questions. So maybe to his credit, he's
7 actually having the effect he wants to have, which
8 is, I'm just going to give the argument that I want
9 to give knowing full well the question is never
10 going to be answered and it doesn't matter.

11 It's improper and it puts us in the, frankly,
12 impossible position of either having to wait for the
13 entirety of the question, which is clearly improper,
14 it puts the top point out there, then we object and
15 it is sustained.

16 we're looking like we're cutting him off,
17 which is not the position that we want to be in, we
18 don't think it's proper decorum, anyway, but these
19 questions can't continue to go on.

20 And so I guess the point is, we would like a
21 remedy if this is going to continue in terms of
22 stopping the question immediately or vetting the
23 question through you first.

24 And for the purposes of now, and I've given
25 this to Mr. Sorosky just now, an instruction to the

1 jury which I think you made at the beginning but
2 it's certainly appropriate now, and I'll hand it up
3 to your Honor, which basically reminds them that the
4 questions are not evidence, when you sustain an
5 objection they must disregard the question, and we
6 have a duty to object.

7 And, you know, obviously there is a growing
8 concern that some members of this jury may think
9 that because Mr. Sorosky makes an argument through a
10 question, somehow it's meaningful. And, of course,
11 as everyone knows, in a court of law the only
12 meaningful thing that occurs is what comes out of
13 the witness' mouth.

14 So it's really improper, I think it's gone on
15 long enough this morning, and it's really got to
16 stop.

17 MR. SOROSKY: If I may respond. First
18 concerning the Madigan issue: The government
19 brought out very specifically when they put
20 Mr. Krozel on the witness stand, and with Mr. Krozel
21 they went through great length of explaining the
22 difference between the tollway project and the
23 Capital bill and the governor had the exclusive
24 prerogative to do that because that was within his
25 purview as chief executive officer; however, the

1 capital bill could only be passed by the legislature
2 and there was no chance of a capital bill being
3 passed because Mike Madigan was against it, and the
4 government even brought out how it had passed the
5 Senate.

6 And this was through Mr. Krozel's testimony,
7 that there was no chance, there was no chance of the
8 capital bill ever becoming law because Mike Madigan
9 would not pass it and this is why Mr. Krozel said he
10 supposedly didn't believe the governor about this
11 bit about the reason why the governor was holding
12 back on the second 5-billion-dollar project was
13 because he, the governor, didn't want to announce it
14 because, he, the governor, wanted to pass the
15 capital bill.

16 And Mr. Krozel, the government's witness,
17 said I thought the governor was lying when he said
18 that and not being truthful but that the real reason
19 was, he knew there was no chance of capital bill
20 being passed because Mike Madigan and Rod
21 Blagojevich were at war and Mike Madigan would not
22 pass the capital bill.

23 THE COURT: Okay, move on to your next
24 subject.

25 MR. SOROSKY: Well, with all due respect,

1 Your Honor, Mr. Krozel was not aware of the
2 potential negotiations --

3 THE COURT: Move on to your next one.

4 MR. SOROSKY: -- and Mike Madigan --

5 THE COURT: You are making an incoherent
6 argument, move on to your next subject.

7 MR. SOROSKY: I'm just responding to the
8 Madigan thing.

9 THE COURT: No, no, no. If that's the only
10 thing you want to respond to, that's fine. If there
11 is something else --

12 MR. SOROSKY: Well, I'm just telling you why
13 we felt that question was proper.

14 THE COURT: I understand why you felt it was
15 proper, I don't actually understand how you could
16 think that question was proper, but is there
17 anything other than that you want to talk about?
18 Any of you can speak to this because I want you to
19 speak to everything so that when I rule I don't get
20 an add-on from anybody. So go ahead.

21 MR. SOROSKY: We strongly object to this
22 instruction. There isn't any basis.

23 THE COURT: Okay, this is it?

24 MR. SOROSKY: There is no basis for it.

25 The only thing the government is trying to

1 do, as they've tried to do consistently with this
2 case, is use the court to diminish our case and help
3 their case and it's just wrong.

4 THE COURT: Except for one small thing, I
5 really don't know what your case is except for one
6 thing, which is not at issue in any of this witness'
7 questions, and that is the theme of the opening
8 statement, which is none of this stuff actually
9 happened, which is an interesting thing to have in a
10 case which essentially alleges attempt because
11 that's true in all attempt cases, nothing happened.
12 But anything else you want to say, say it now.

13 MS. KAESEBERG: I would add with the
14 instruction that the government is asking you to
15 give, I think to say there is a duty to object, but
16 it is inappropriate to tell the jury at this point.
17 You make a ruling on whether the objection is proper
18 or not, and clearly you sustained the majority of
19 the government's objections, but sometimes were not
20 sustained, at least a few, and to say there's a duty
21 for them to object, basically I think it raises the
22 level of how much credence to give to every
23 objection. That's an improper instruction to give
24 at this point.

25 And I would argue the instruction shouldn't

1 be given until the end of the case, but if you are
2 inclined to give the instruction, we would ask that
3 at least that latter --

4 THE COURT: I gave it once already, I gave it
5 once already without objection.

6 Okay, let me tell you what this is: Your
7 basic approach, and this has been your approach in
8 some of the motions that are before me today, and
9 that is, you misconstrued, and I don't know how you
10 could, you misconstrued the government's position.

11 I'll give you an example unrelated to
12 Madigan, we'll get to Madigan in a second: The
13 government says, we're not interested in any of the
14 defendant's actions and they shouldn't be put into
15 evidence after he's arrested. And they're talking
16 basically about whether he did or did not sign the
17 racetrack bill, whether he did or did not let the
18 pediatric specialists go through. You interpreted
19 this to mean that by discussing any subject that
20 occurred after the arrest, the government has opened
21 the door to absolutely everything and entitles you
22 to put in anything after that date.

23 This is not true. This is kind of an equal
24 protection argument. And with Krozel, it's even
25 worse, because they weren't asking Krozel about

1 Madigan, they were asking Krozel what he thought
2 about Madigan and what he believed. However correct
3 or incorrect, this was the basis of his discussions
4 with Madigan. It doesn't respond to Krozel and
5 doesn't aid you in any way by talking about what the
6 real story is with Madigan, whether there really was
7 a hope, whether there wasn't a hope.

8 The only place you could possibly have used
9 it was with Krozel, but you don't use it with
10 Krozel, you use it with this witness and you ask
11 this witness what somebody's intent was, what
12 somebody believed in circumstances where you are not
13 talking about interpreting what somebody said,
14 interpreting what they believed.

15 And let me tell you what the problem is,
16 because I'm not sure that what the government has
17 proposed is an adequate remedy. The reason is is
18 that these questions hint at facts that haven't been
19 proved, in some cases there's no factual basis for
20 asking the questions, and in some cases you're not
21 talking about a fact, a specific fact, you're
22 talking about something the witness said he believed
23 and the only relevance to it is that he believed he
24 didn't believe it. And you can possibly cross
25 examine the person who said that, but you're not

1 doing that, you're cross-examining somebody else who
2 isn't Krozel.

3 And the problem for the government is is that
4 somehow the jury will think that these are facts
5 there and that we ought to consider them even though
6 the judge said we shouldn't, even though they know
7 this is a general principle.

8 And there is a remedy for that, and the
9 remedy for that is to specifically give a list or a
10 representative list of questions and tell the jury
11 to disregard them, and tell the jury also that the
12 defense is entitled to offer evidence on those
13 points, but it's evidence and not questions.

14 The problem with that is is that we do have
15 an instruction that says you shouldn't consider
16 against the defendant the fact that the defendant
17 does not testify or calls no witnesses, there's no
18 obligation to do so, but you are putting the
19 government in a position where it is unfair and
20 over-reading to say that unadorned.

21 And, in fact, there are several things in the
22 law that are entirely inconsistent with that
23 principle, one of which is, the government is
24 entitled in closing argument to argue that some of
25 their evidence is uncontradicted, the only

1 restriction on that is if it's a situation in which
2 the only way it could be contradicted is in the
3 testimony of the defendant. They're free to make
4 that argument with respect to any position you take.
5 In fact, they're free to make that argument in a
6 general way simply by noting that other witnesses,
7 if there are other witnesses, that something is
8 uncontradicted by the defense. It's a kind of I
9 argument really don't like to see, but it's a kind
10 of argument that you are inviting the government to
11 make.

12 I don't want you to ask any further questions
13 of the sort that you tried with Madigan when what we
14 are talking about is not whether Madigan would allow
15 the bill to pass and would not allow the bill to
16 pass, it's whether the witness believed something.

17 Now, you can when you get up in closing
18 argument and argue until you're blue in the face
19 that Krozel is lying to you and that he didn't
20 disbelieve the government. But what you're doing is
21 making this argument in the form of questions, and
22 you've done it persistently. And it was done in the
23 last trial, as well.

24 So I'm going to give this instruction to the
25 jury and I'm going to give this instruction to the

1 jury now, and I will remind the jury periodically of
2 it, and I will, I have not yet done this, but I
3 will, in fact, end an examination.

4 Now, in all honesty, because I do not want to
5 embarrass a lawyer, if I have to sit a lawyer down,
6 I will excuse the jury, then sit the lawyer down,
7 and the jury will simply believe that the
8 cross-examination is finished.

9 This is an abuse of cross-examination. And
10 I'll point to something that is not so inflammatory:
11 I believe I told you twice that if the question you
12 ask is what happened this, who said what, when did
13 this happen, where did you go, who were you with,
14 who was present, fine. "Please tell the ladies and
15 gentlemen of the jury" is not an appropriate
16 question, I told you that twice, and you did it
17 again. And my difficulty with this is, that's not a
18 flagrant foul. It's not a big deal, but what is a
19 big deal is that I tell you this and within a half
20 an hour, twice, within half an hour you do it again.

21 And the reason this is a problem for me is, a
22 lot of judge's rulings are based, particularly when
23 the question is a little on the line, are based on
24 the premise that you can trust what the lawyer is
25 going to do, that they're trying to follow your

1 rulings, and that they're capable of following your
2 rulings, and if that assumption and that premise is
3 gone, then it creates enormous problems for
4 everybody in this courtroom. So I hope you take
5 this to heart and follow it.

6 And we are now done.

7 MR. SOROSKY: I do, I follow whatever --

8 THE COURT: No, no, I don't want to hear you
9 speak about it, I want to see you do it. And this
10 is all I have to say.

11 MR. SOROSKY: I understand. But if I could
12 just make one comment --

13 THE COURT: No. The reason I did this was to
14 tell you what I want to rule on, I don't want a
15 comment. Lawyers get to argue, I make a ruling, and
16 then you follow the ruling. If you think the ruling
17 is wrong, you have a remedy, but it's not to reargue
18 it in front of me.

19 Bring in the jury, we're ready.

20 The witness back on the stand.

21 (Brief pause).

22 THE MARSHAL: All rise.

23 (The following proceedings were had in the
24 presence of the jury in open court:)

25 THE COURT: Please be seated.

1 I have one brief instruction for you. The
2 only reason I'm giving it is, you obviously sat
3 through this morning on an examination which there
4 were a fairly large number of objections, and a
5 fairly large number of my rulings many of which I
6 sustained, some of which I didn't.

7 There's a rule of law that covers this, it's
8 an instruction you'll actually receive at the end of
9 the case, as well, and it's an instruction I gave
10 you at the very beginning but I think it's worth
11 repeating:

12 Questions by the lawyers are not evidence.
13 When I sustain an objection to questions the lawyers
14 have asked, you must disregard the lawyer's
15 questions and you must not speculate on what the
16 answer would have been or might have been.
17 Attorneys also have a duty to object when they
18 believe the question is improper. You should not be
19 influenced by the fact that a lawyer made an
20 objection.

21 With that, you may resume.

22 ALONZO MONK, GOVERNMENT WITNESS, PREVIOUSLY SWORN
23 CROSS EXAMINATION (resumed)

24 BY MR. SOROSKY:

25 Q How are you?

1 A Good.

2 q If you will remember, before the lunch hour we
3 talked about the fact that in early September you
4 had received your assignment or a job of attempting
5 to get a contribution from the Johnstons, that
6 assignment coming from the governor, correct?

7 A Yes.

8 q And then I believe you related in your direct
9 examination many, many phone calls, some of which we
10 heard, that were recorded of your conversations with
11 Mr. Johnston attempting to get a contribution,
12 right?

13 A Yes.

14 q And, of course, would it be fair to say in all
15 those conversations you were asking Mr. Johnston for
16 a contribution, correct? Or in many of them?

17 A Yes.

18 q And you were asking in the best most artful way
19 that you could -- that you could, in an effort to
20 get a contribution, would that be a fair statement?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: Sustained as to form.

23 BY MR. SOROSKY:

24 q You were just asking to get contributions, right?
25 Or get contributions, right?

1 A Yes.

2 q And would it be accurate to say that Mr. Johnston
3 was always telling you he was trying to get it, he
4 was trying to get it, and he was working on it, that
5 type of thing, would that be a fair assessment of
6 Mr. Johnston's statements to you every time wherever
7 you asked for a contribution?

8 A Yes.

9 q And many of those -- and after many of those
10 conversations, you reported back to Governor
11 Blagojevich, didn't you, about the status of the
12 contribution, did you not?

13 A Yes.

14 q And would it be correct to say that you told the
15 governor that you felt Johnston is working on it,
16 Johnston is good for it, and Johnston will give the
17 contribution?

18 A Yes.

19 q And let me ask you, did you honestly believe that
20 Johnston was going to give the contribution?

21 A Yes.

22 q And in some of those conversations you had with
23 the governor, you asked the governor if he was going
24 to sign the Recapture Bill, did you not?

25 A Yes.

1 q And did not Rod always tell you, you have nothing
2 to worry about, I'm going to sign the Recapture
3 Bill?

4 A Yes.

5 q And Rod never told you in express words, "look,
6 Lon, I'm only going to sign this Recapture Bill if
7 the Johntsons come through with a contribution"?

8 A I'm sorry, can you ask it again? I'm sorry.

9 q Rod never said I'm only going to sign the
10 Recapture Bill if the Johntsons come through with
11 the contribution?

12 A No, he never said that.

13 q Now, when you first started asking Mr. Johnston
14 for a contribution, would that be, let's say,
15 September of 2008?

16 A I think that's the right time frame, yeah.

17 q So when you first started asking Mr. Johnston for
18 this contribution, the Recapture Bill wasn't even a
19 topic of conversation, was it?

20 A Yeah, it was.

21 MR. NIEWOEHRER: Objection.

22 THE COURT: The objection is sustained.

23 BY MR. SOROSKY:

24 q And then all during September and October, you
25 had a number of conversations with Mr. Johnston

1 about the contribution, right?

2 A Yes.

3 q And Mr. Johnston was always saying I'm working on
4 it, I'll get it to you, that type of thing, correct?

5 A Yes.

6 q And then by -- then on November 20th, 2008, the
7 Recapture Bill had passed the legislature?

8 A Correct.

9 q And then four days later, November 24th, the
10 Recapture Bill was sent to the Governor's office for
11 his possible signature, correct?

12 A Correct.

13 q And while this Recapture Bill was being
14 considered by the legislature and eventually passed
15 by the legislature and given to the governor, in
16 October, November of 2008, unrelated to all of that,
17 you were asking Johnston for a contribution, right?

18 MR. NIEWOEHNER: Objection, Your Honor.

19 THE COURT: The objection is sustained.

20 BY MR. SOROSKY:

21 q Now, when you were asking Mr. Johnstons for
22 contributions in October -- September, October,
23 November of 2008, you were not monitoring the
24 Recapture Bill, were you?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: Sustained.

2 BY MR. SOROSKY:

3 q And in middle November of 2008, did you and Rod
4 discuss the issue or the problem that, here we're
5 seeking a contribution from the Johntsons and this
6 Recapture Bill is awaiting the governor's signature?

7 MR. NIEWOEHNER: Objection.

8 THE COURT: Very out of bounds. The
9 objection is sustained.

10 BY MR. SOROSKY:

11 q Did you consider it a timing problem?

12 MR. NIEWOEHNER: Objection.

13 BY MR. SOROSKY:

14 q What I mean --

15 THE COURT: Yeah, I think maybe you somehow
16 incorporated the previous question to which I
17 sustained the objection, and that's how I think the
18 "it" you're talking about here and maybe you can
19 more precise.

20 BY MR. SOROSKY:

21 q Now, during this period of time in September,
22 October and November, even early December of 2008,
23 when this Recapture Bill was being considered and
24 eventually passed, did you know if the governor ever
25 called Mr. Johnston?

1 MR. NIEWOEHNER: Objection.

2 THE COURT: That calls for hearsay, unless
3 you're going to ask him --

4 BY MR. SOROSKY:

5 q Do you have any knowledge -- didn't you suggest
6 to the governor that he call Johnston to assist with
7 the contribution?

8 MR. NIEWOEHNER: To the content of that
9 conversation.

10 THE COURT: The objection is sustained.

11 BY MR. SOROSKY:

12 q Did you on December 4th tell the governor,
13 December 4th of 2008, tell the governor to call
14 Johnston?

15 A Yes.

16 q And to the best your knowledge, the governor
17 never called Johnston, did he?

18 MR. NIEWOEHNER: Objection, Your Honor.

19 THE COURT: To the best of his knowledge
20 means maybe he doesn't know.

21 BY MR. SOROSKY:

22 q Do you know if the governor ever called --

23 THE COURT: But also ask him, for example, if
24 in the governor's presence the governor called
25 Johnston.

1 BY MR. SOROSKY:

2 q Did the governor ever call Johnston in your
3 presence?

4 MR. NIEWOEHNER: Objection. Time frame, Your
5 Honor.

6 THE COURT: Time frame.

7 BY MR. SOROSKY:

8 q At any time during this period of time,
9 September, October, November, December of 2008?

10 THE COURT: We started this question with
11 December, why don't we go back to the original
12 question.

13 BY MR. SOROSKY:

14 q Okay. After you suggested that the governor call
15 Mr. Johnston, did the governor ever call
16 Mr. Johnston in your presence after that suggestion
17 in December, on December 4th of 2008?

18 A Not in my presence, no.

19 q At any time in your presence in September,
20 October or November in 2008, when this topic was at
21 issue, did the governor ever call Mr. Johnston?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: I'm sustaining it.

24 BY MR. SOROSKY:

25 q Now, on December 3rd, you came to the governor's

1 campaign office to talk to the governor, did you
2 not? That is December 3rd of 2008, did you not?

3 A Yes.

4 q And at that meeting, the governor and you went
5 over potential conversations that you might have
6 with Mr. Johnston as to how best get the
7 contribution, would that be a correct statement?

8 MR. NIEWOEHNER: Your Honor, I object;
9 compound.

10 THE COURT: why don't you shorten it out.

11 MR. SOROSKY: That one I don't think it was
12 compound. I only asked, on December 8th did you go
13 over --

14 THE COURT: No, no, no, you said something a
15 little more than that, and maybe if you try the next
16 one it might be possible.

17 BY MR. SOROSKY:

18 q On December 3rd, 2008, did you and the governor
19 go over potential conversations?

20 A Yes.

21 q And were those potential conversations about how
22 best to approach Johnston about getting this
23 contribution?

24 A Yes.

25 q And was not the purpose of these potential

1 conversations to make Johnston feel that he was not
2 being threatened and extorted?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: Whose purpose?

5 MR. SOROSKY: The purpose of the governor.

6 MR. NIEWOEHNER: Objection.

7 THE COURT: Sustained.

8 BY MR. SOROSKY:

9 Q And in these potential conversations that you had
10 with the governor, did the governor ever say, I want
11 you to go there and tell him that if Johnston
12 doesn't give a contribution, I'm not going to sign
13 the bill?

14 MR. NIEWOEHNER: The explicit words, Your
15 Honor?

16 THE COURT: Explicit words?

17 MR. SOROSKY: Yes.

18 THE COURT: You can answer the question.

19 BY THE WITNESS:

20 A No.

21 BY MR. SOROSKY:

22 Q In fact, and did not the governor tell you to say
23 that there are two separate -- that these are two
24 separate conversations?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: Sustained.

2 BY MR. SOROSKY:

3 q Then you went over and spoke to Johnston, did you
4 not, after these potential conversations?

5 A Yes.

6 q Did you ever tell Johnston on December 8th when
7 you had this in-person -- on December 3rd, I
8 apologize, when you had this in-person meeting:
9 Johnny, the governor is not gonna sign the Recapture
10 Bill unless you give a contribution?

11 THE COURT: Exact words again?

12 MR. SOROSKY: Exact words.

13 BY THE WITNESS:

14 A Those exact words, no.

15 BY MR. SOROSKY:

16 q Did you ever tell Mr. Johnston that there was a
17 concern about the timing? And by "timing" I mean
18 the fact that the governor wanted a contribution and
19 the governor had to sign the bill?

20 MR. NIEWOEHNER: Objection.

21 THE COURT: It's a compound question.

22 BY MR. SOROSKY:

23 q Well, I just ask -- the only question is, did you
24 ever tell Mr. Johnson there was a concern about
25 timing?

1 THE COURT: Okay, if you stop there.

2 MR. SOROSKY: I'll stop there.

3 BY THE WITNESS:

4 A I'm sorry, you have to ask the question again.

5 BY MR. SOROSKY:

6 q Did you ever tell Mr. Johnston that the governor
7 had some concern or there was some concern about
8 timing?

9 A Yes.

10 q And just so we get the timing, was timing the
11 fact that a contribution was being sought at the
12 same time that the governor was supposed to sign the
13 bill?

14 MR. NIEWOEHNER: Objection.

15 THE COURT: Sustained.

16 BY MR. SOROSKY:

17 q How do you define "timing"?

18 MR. NIEWOEHNER: Your Honor --

19 THE COURT: The question -- you're talking
20 about a conversation between two people, and you
21 want to know what, if anything, he communicated
22 about timing, why don't you ask him what he said
23 about timing.

24 BY MR. SOROSKY:

25 q If you could answer the judge's question.

1 THE COURT: No, no, no, you got to put it
2 yourself. I know it's a silly rule, but it's a rule
3 and we like to follow the rule.

4 BY MR. SOROSKY:

5 q Well, what was said about timing between Johnson
6 and you on December 3rd, 2008?

7 A That the governor was concerned that if he signed
8 the bill, the Johntsons would be skittish and not
9 want to give a contribution so close in the time of
10 signing the bill.

11 q And did you interpret that as a public relations
12 concern by the governor?

13 MR. NIEWOEHNER: (Counsel standing.)

14 THE COURT: The objection is sustained.

15 BY MR. SOROSKY:

16 q Now, just so we're clear, just one or two more
17 questions on this topic. The governor never told
18 you in any of your conversations with the governor
19 about the racetrack, "if I don't get a contribution,
20 I'm not going to sign the bill"?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: What?

23 MR. NIEWOEHNER: Objection, Your Honor.

24 THE COURT: His exact words again?

25 MR. NIEWOEHNER: Yes.

1 THE COURT: Okay.

2 BY THE WITNESS:

3 A He never said that.

4 BY MR. SOROSKY:

5 q But just so we're clear, you believe that was the
6 governor's understanding, is that correct? That he
7 wouldn't sign a bill unless he got a contribution?

8 MR. NIEWOEHNER: Objection to the form.

9 THE COURT: Yeah. Try it again.

10 BY MR. SOROSKY:

11 q You believed that was the governor's position or
12 thought, whatever you want to call it, that the
13 governor wouldn't sign the bill unless he got a
14 contribution, correct?

15 MR. NIEWOEHNER: Objection, your Honor.
16 Misstates the testimony.

17 THE COURT: The objection is sustained.

18 BY MR. SOROSKY:

19 q Well, you believe that was the governor's
20 understanding, is that correct?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: Same ruling.

23 BY MR. SOROSKY:

24 q Well, it was your understanding of the governor's
25 words that what he was really saying, "if I don't

1 get a contribution, I won't sign the bill," is that
2 correct?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: The objection is sustained.

5 BY MR. SOROSKY:

6 q well, all right, just so we're clear, the
7 governor never said the words "if he doesn't sign
8 the bill" -- the governor never said the words, "if
9 I don't get a transaction, I won't sign the bill"?

10 A Not to me.

11 q Did you ever hear him say it to anyone else?

12 A No.

13 q You testified your understanding was something
14 different than what the governor said, correct?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: Sustained as to form.

17 BY MR. SOROSKY:

18 q well, what was your understanding of what the
19 governor said?

20 MR. NIEWOEHNER: What conversation?

21 THE COURT: I think you may want to rephrase
22 that.

23 BY MR. SOROSKY:

24 q what was -- well, you related certain
25 understandings of the governor when you testified on

1 direct examination, did you not?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: Why don't you come to the side,
4 because the problem is is that I think what the
5 question you're asking is based on a premise that
6 was not included in the government's case, and I
7 think I can tell you my understanding of it and it
8 might enable you to ask a proper question. So let's
9 come to the side.

10 MR. SOROSKY: The government has consistently
11 made a point throughout its case that the governor
12 promised to do a 1.8 billion-dollar program
13 immediately, the billion dollar program immediately
14 and a 5-billion-dollar program next year, and he was
15 extorting Krozel and the road builders because he
16 wouldn't do this program unless they gave him a
17 contribution, we just want to establish to the jury
18 if he got arrested and charged and therefore he
19 couldn't possibly do the program after he just said
20 he got arrested and therefore couldn't possibly do
21 the program and never had an opportunity to do the
22 program.

23 THE COURT: When was he degovernored?

24 MR. SOROSKY: When was he what?

25 THE COURT: Degovernored.

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1 MR. SOROSKY: Degovernored? You mean
2 impeached?

3 THE COURT: Yeah.

4 MR. SOROSKY: I would say late January. They
5 would know the exact date.

6 THE COURT: And he had late January to
7 announce it.

8 MR. SOROSKY: Well, I would also add, too,
9 you know, what's the ol' expression, what's good for
10 the goose is good for the gander, I don't know where
11 that expression comes from, but if we can't mention
12 anything after December 5th or December 8th why
13 should they have the advantage of saying, impliedly
14 saying, oh, he didn't do something?

15 THE COURT: You want to speak to this?

16 MR. NIEWOEHNER: Your Honor, we focused
17 everything before December 9th, all the questions
18 and public announcements are December 9th, we never
19 suggested anything beyond that time frame, for the
20 same reasons we moved on Children's Memorial
21 Hospital on --

22 THE COURT: Yeah, I don't think they have
23 enough. On top of it, it doesn't do you any good
24 because if he's soliciting campaign contributions in
25 exchange for some program, if he's not, then that's

1 fine, if he is soliciting campaign contributions to
2 such programs, the fact that he kept his promise
3 does not bear on his possible innocence, it's more
4 like evidence of guilt. I don't see where this gets
5 you. It's like, okay, I got to do it, maybe he's
6 fishing for some more stuff. Now, there are ways
7 for it to come in that you could possibly get this
8 into your case, but not -- this is an inference, at
9 best, goes both ways, so it's out.

10 Do you have anything else you're going to ask
11 so we can get the rulings on the side? Because he
12 was fairly narrow.

13 MR. SOROSKY: No, we're fine.

14 THE COURT: Okay.

15
16 BY MR. SOROSKY:

17 Q Now, on December 3rd, you went over to the
18 Johnston office, is that correct?

19 A Yes.

20 Q So just so we're clear on the events of December
21 3rd, 2008, you were at Blagojevich's office?

22 A Yes.

23 Q You had these potential conversations about what
24 you would say to Mr. Johnstons, then you called

25 Mr. Johnston and went over to Johnston's office, is

1 that correct?

2 A Yes.

3 q And when you were at Johnston's office, you did
4 receive two checks for \$12,000 each, did you not?

5 MR. NIEWOEHNER: Objection.

6 THE COURT: Sustained.

7 BY MR. SOROSKY:

8 q And then after finishing your meeting with
9 Mr. Johnston, you called the governor and reported
10 back the results of your meeting, correct?

11 A Yes.

12 q This was on December 3rd, is that correct?

13 A Yes.

14 q Then it was the next morning, December 4th,
15 that's when you left for your trip to the Dominican
16 Republic, right?

17 A Yes.

18 q And when you were at the airport in Miami, you
19 and the governor had a telephone conversation,
20 right?

21 A Yes.

22 q And portions of that telephone conversation were
23 played for the jury earlier, were they not, on
24 direct examination?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: The jury heard what the jury
2 heard.

3 MR. SOROSKY: Right. Good.

4 THE COURT: The objection is sustained.

5 BY MR. SOROSKY:

6 Q Now, in that telephone conversation the topic of
7 Mr. Johnston's hesitancy about giving a contribution
8 was discussed by the governor and you, is that
9 correct?

10 MR. NIEWOEHNER: Objection, Your Honor.

11 THE COURT: The objection is sustained.

12 BY MR. SOROSKY:

13 Q Did the name or the topic of Chris Kelly come up
14 in that conversation?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: Objection on relevance grounds is
17 sustained.

18 BY MR. SOROSKY:

19 Q Did the governor indicate to you or tell you that
20 he thought Chris Kelly might be responsible --

21 MR. NIEWOEHNER: Objection, Your Honor, to
22 this whole line --

23 THE COURT: You can't do that. You're
24 talking about hearsay. There's a way that you can
25 get this in; this isn't it. Your chance will come

1 later.

2 BY MR. SOROSKY:

3 Q Now, just so we're clear, you pled guilty to the
4 charge of conspiring with the governor to extort
5 Mr. Johnston, is that correct?

6 MR. NIEWOEHNER: Objection, Your Honor.

7 THE COURT: Why don't you confer with
8 counsel, then we don't have to worry about this.

9 (Whereupon, there was a conference had between
10 counsel and the following further proceedings
11 were had herein:)

12 BY MR. SOROSKY:

13 Q Excuse me.

14 You pled guilty to attempting to solicit --
15 (Whereupon, there was a conference had between
16 counsel and the following further proceedings
17 were had herein:)

18 BY MR. SOROSKY:

19 Q Conspiracy to solicit a bribe from Mr. Johnston,
20 right?

21 A Yes.

22 Q So based on that theory, that contribution by
23 Mr. Johnston would be a bribe, right?

24 MR. NIEWOEHNER: Objection, Your Honor.

25 THE COURT: It's beyond this.

1 MR. SOROSKY: Okay.

2 THE COURT: It's an inappropriate witness to
3 ask that.

4 BY MR. SOROSKY:

5 q Okay. So you pled guilty to conspiracy to
6 solicit a bribe from Mr. Johnston, right?

7 A Yes.

8 q However, you did not plead guilty to the money
9 from Mr. --

10 MR. NIEWOEHNER: Objection.

11 THE COURT: No, you cannot ask that question,
12 and you know you can't ask that question.

13 BY MR. SOROSKY:

14 q Now, I believe that when you pled guilty, you
15 pled guilty pursuant to some written plea agreement,
16 did you not?

17 A Yes. Yes.

18 q And in your written plea agreement, there are
19 certain things said in there -- well, first, you --
20 strike that.

21 You said your fate was to be decided by Judge
22 Zagel as to whether you get a jail sentence or not,
23 right?

24 A Correct.

25 q And you're hoping to get a 2-year jail sentence,

1 is that correct?

2 A Pursuant to the plea agreement, yes.

3 q And you're familiar with something called the
4 sentencing guidelines, are you not?

5 A Yes.

6 q Those are calculations by judges that would
7 determine what someone's sentence should be, right?

8 A Right.

9 q And pursuant to your agreement with the
10 government, you have an agreement where Judge Zage1
11 is not going to consider the money you received from
12 Mr. Rezko as a calculation in the sentencing
13 guidelines, correct?

14 MR. NIEWOEHNER: I'll object.

15 THE COURT: I'm sustaining this one.

16 MR. SOROSKY: Nothing further from this
17 witness.

18 (Brief pause).

19 MR. NIEWOEHNER: Just one moment, Your Honor?

20 THE COURT: Sure.

21 (Brief pause).

22 MR. NIEWOEHNER: A few questions, Your Honor?

23 THE COURT: You may.

24 REDIRECT EXAMINATION

25 BY MR. NIEWOEHNER:

1 q Mr. Monk, you were asked some questions about the
2 tollway, do you recall that?

3 A Yes.

4 q Who directed you to contact Mr. Krozel to set up
5 that meeting in the September of 2008?

6 A Rod.

7 q Who told you that the meeting was going to be
8 about fundraising?

9 A Rod.

10 q Who was going to get the contributions that
11 Krozel was going to raise from the construction
12 industry?

13 A Rod.

14 q Who did the talking at the September meeting?

15 A Mostly Rod and Jerry Krozel.

16 q Now, Mr. Sorosky asked you about part of what
17 happened at that meeting, do you recall those
18 questions?

19 A Yeah, I think it was about part of the tollway
20 program.

21 q Mr. Sorosky didn't ask you a single question
22 about the 5-billion-dollar program, did he?

23 MR. SOROSKY: Objection.

24 MR. GOLDSTEIN: Objection.

25 THE COURT: The objection is sustained.

1 BY MR. NIEWOEHNER:

2 q was the 5 billion-dollar program brought up
3 during the meeting in September of 2008 between you
4 and Jerry Krozel?

5 A Yes.

6 q By who?

7 A Rod.

8 q what did the defendant say about the
9 5-billion-dollar program in that meeting?

10 A He said about the 5-billion-dollar program that
11 he was going to wait until after the first of the
12 year to announce that.

13 q who asked Jerry Krozel to raise money in that
14 meeting?

15 A Rod.

16 q when did the defendant say he wanted the money
17 by?

18 A By the end of the year.

19 q what did you think the defendant was doing in
20 that meeting?

21 A He was using the 5-billion-dollar program as
22 leverage to try and get the campaign contributions
23 by the end of the year.

24 MR. SOROSKY: Objection to that, "leverage,"
25 that's his interpretation.

1 THE COURT: Yes, it's his interpretation and
2 it's clear this is not a statement made by the
3 governor, and for that reason it may stand.

4 BY MR. NIEWOEHRER:

5 q Who directed you to get money from Krozel right
6 after the meeting?

7 A Rod.

8 q You understood that Krozel was going to raise
9 money from the entire construction industry, is that
10 right?

11 A Yes.

12 q And you understood the road builders was part of
13 the entire -- the subset of the construction
14 industry?

15 A Yes.

16 q You were asked some questions about when the
17 defendant -- you had that conversation with the
18 defendant where he said some along the lines of "if
19 they don't step up f' 'em, I won't do the bigger
20 announcement in January," do you recall that?

21 A Yes.

22 q What did you understand the defendant to mean
23 when he said that?

24 A He was talking about engineering companies --

25 MR. SOROSKY: Objection to that. Outside the

1 scope of the cross.

2 THE COURT: I think he's right. I'm
3 sustaining it.

4 BY MR. NIEWOEHRER:

5 q You were asked some questions about whether
6 Gerald Krozel was present for that conversation, do
7 you recall that, the conversation where the
8 defendant said, "if they don't step up, f' 'em," do
9 you recall those questions?

10 A Yes.

11 q Mr. Krozel wasn't present for that conversation,
12 was he?

13 A No.

14 q What did you understand the defendant's message
15 to Krozel was at the September meeting?

16 MR. SOROSKY: Objection to "message."

17 THE COURT: Overruled.

18 BY THE WITNESS:

19 A That, you know, I'm announcing this 1.8 billion
20 dollar program and I'm going to announce this 5
21 billion dollar program, I'm really being good to
22 your industry, and so the people you're going to
23 fundraise from who are going to benefit from this
24 should step up by the end of the year.

25 q Okay. And that was what you understood the

1 defendant said to you when it was just you and the
2 defendant, correct?

3 A No, I thought you were talking about the verbiage
4 in the Krozel meeting.

:34PM

5 Q Okay. In the Krozel meeting in September, what
6 did you understand the defendant's message to Krozel
7 was?

:34PM

8 A That his constituency, his members of the road
9 builders association and the construction industry
10 ought to be happy that he's announcing this plan and
11 that they should be raising money for him by the end
12 of the year.

:35PM

13 Q If they didn't raise money by the end of the
14 year, what did you understand the defendant said was
15 going to happen?

16 MR. SOROSKY: Objection. That assumes a fact
17 not in evidence since he didn't say the governor --

:35PM

18 THE COURT: I really didn't need that, it's
19 really out of bounds to do that, and it's
20 particularly improper to do that when I'm sustaining
21 the objection.

22 BY MR. NIEWOEHRER:

:35PM

23 Q Let me take you to your last conversation with
24 Jerry Krozel.

25 In your last conversation with Jerry Krozel,

1 did you understand he was going to raise money for
2 the defendant?

3 A Yeah. I thought he was, yeah.

4 q And your last conversation, the last conversation
5 with the defendant where you talked about Jerry
6 Krozel for the last time, do you recall that?

7 A Yes.

8 q How much money did the defendant -- or did the
9 defendant asked you along the lines that "they'll do
10 more than 100, won't they" in reference to the road
11 builders?

12 A Yes.

13 q What did you understand the defendant to mean?

14 A That the road builders would raise at least
15 \$100,000 for him by the end of the user.

16 q And that was the entire construction industry, is
17 that right?

18 A Right.

19 q Now, you were also asked questions about Tony
20 Rezko, do you recall that?

21 A Yes.

22 q Who was the person that Tony Rezko raised money
23 for?

24 A The governor.

25 q How much money did Rezko raise for the defendant

1 during the course of 2002, 2003, 2004?

2 MR. SOROSKY: Objection; Outside the scope of
3 cross.

4 THE COURT: Overruled.

5 BY THE WITNESS:

6 A Millions of dollars.

7 BY MR. NIEWOEHRER:

8 q In 2003 and 2004, was anyone more important to
9 raising money for the defendant than Tony Rezko and
10 Chris Kelly?

11 A No.

12 q who was present -- do you recall those two
13 meetings you described, one was at Rezmar Offices
14 and one was at a hotel in California?

15 A Yes.

16 q who was present at those meetings?

17 A Myself, the governor, Chris Kelly, and Tony
18 Rezko.

19 q who was going to make money out of those ideas
20 that were discussed at the meetings?

21 A The four of us.

22 q when you said that you didn't think the defendant
23 would approve of the method that you took cash from
24 Tony Rezko, what did you mean?

25 MR. SOROSKY: Objection to that. He said

1 what he said.

2 THE COURT: Overruled.

3 BY THE WITNESS:

4 A That the way I was receiving the money and not
5 depositing it in the bank and not using an ATM card
6 could lead to an investigation of me and then
7 ultimately him, potentially.

8 BY MR. NIEWOEHRER:

9 Q So were you concerned that the defendant wouldn't
10 want you to make money from Rezko in some way?

11 A No.

12 Q Now, the money that Rezko gave you, did he ask --
13 did he ask you to give it back at any point?

14 A No.

15 Q Did he ask you to do anything in particular in
16 exchange for it?

17 A No.

18 Q Do you consider that as a kind of gift?

19 A Yes.

20 Q How did you justify it to yourself when you took
21 that money?

22 MR. SOROSKY: Objection to this.

23 THE COURT: Overruled.

24 BY THE WITNESS:

25 A He and I had conversations about me working for

1 him after I became chief of staff, and I justified
2 it as an advance against salary from him.

3 BY MR. NIEWOEHRER:

4 Q You were talking about Tony Rezko?

5 A Correct.

6 Q But he never said it was an advance in salary,
7 did he?

8 A No.

9 Q You understood he was just giving you the money?

10 A Yes.

11 Q You were asked a question that after the
12 defendant was arrested, if you knew you had a
13 problem with the cash that Rezko gave you before you
14 decided to cooperate and you said something along
15 the lines of "among other things," do you recall
16 that?

17 A Yes.

18 Q What were the other things that you were
19 referring to?

20 MR. GOLDSTEIN: Objection.

21 THE COURT: Overruled.

22 BY THE WITNESS:

23 A The telephone conversations that had been
24 recorded, conversations with Rod about, you know,
25 fundraising from the Johnstons.

1 BY MR. SCHAR:

2 q And, in particular, when you say the Johntsons,
3 what are you referring to?

4 A The conversations that we've talked about as far
5 as trying to get the 100-thousand-dollar
6 contribution in exchange for the timing of the
7 signing of the racing bill.

8 q You just said the time of the signing of the
9 racing bill, what did you mean when you said the
10 timing of the racing bill?

11 A I thought when Rod was going to sign the bill was
12 an issue of the timing of the signing of the bill.
13 The Johnstons wanted it, my client wanted it signed
14 as soon as possible because they were losing this
15 \$9,000 a day. And so the issue was not so much the
16 signing of it but getting it signed quickly because
17 they were losing so much money.

18 q Were you concerned about what you had done on the
19 racing bill before you decided to cooperate with the
20 government?

21 A Yes.

22 q Who was going to get all the contributions that
23 you made?

24 A The governor's campaign.

25 q Who gave you the fundraising assignments to raise

1 money?

2 A The governor.

3 q who wanted reports to you on the status of your
4 fundraising?

5 A The governor.

6 q who sent you to get a contribution from John
7 Johntson?

8 A The governor.

9 q who was going to benefit from that contribution?

10 A The governor.

11 q who would bring up the status of your fundraising
12 efforts from Johnston?

13 A The governor and his brother.

14 q You were asked about times that you exaggerated
15 or didn't accurately report the status of your
16 conversations with Johnston to the defendant, do you
17 recall those?

18 A Yes.

19 MR. GOLDSTEIN: Objection; misstates the
20 evidence.

21 THE COURT: Wait a minute.

22 (Brief pause.)

23 THE COURT: Overruled.

24 BY MR. NIEWOEHRER:

25 q You lied to the defendant and his brother about

1 that status, is that right?

2 A Correct.

3 q why did you do that?

4 A Because I wasn't being as aggressive as he is in
5 fundraising and I didn't want to get into
6 conversations with him every time I was giving a
7 report on the Johntsons as to why I wasn't calling
8 every day or being as aggressive as he would've been
9 if he were in my shoes.

10 q Were you trying to get a contribution from the
11 Johntsons?

12 A Yes.

13 q You were trying to do it your way?

14 A Yes.

15 q On December 3rd you told the defendant you were
16 going to go Oklahoma, is that right?

17 A Correct.

18 q And you were, in fact, going on vacation, is that
19 right?

20 A Right.

21 q You mentioned -- or why did you tell the
22 defendant that?

23 A Because I didn't want to tell him that I was
24 going down to the Dominican Republic to play golf
25 because I had done this before on a trip to

1 Florida --

2 MR. SOROSKY: Objection; he repeats this all
3 from direct examination.

4 THE COURT: Overruled.

5 BY THE WITNESS:

6 A Because I had done this once before during a
7 similar period of time when we were fundraising and
8 he got very upset. And I thought he would -- you
9 know, I didn't think he was right to do that, so we
10 got into a big screaming match then and I wasn't
11 interested in getting into that discussion again.

12 BY MR. NIEWOEHRER:

13 Q why was the defendant upset with you or why did
14 he say about why he was upset with you when you
15 talked to him about that earlier trip?

16 A That, you know, this is really an important
17 period of time, all hands on deck, we should be
18 fundraising, and what are you doing off down in
19 Florida playing golf.

20 Q So on December 3rd, did you want to tell the
21 defendant you were going to be gone for four days?

22 A Not playing gulf, no.

23 MR. NIEWOEHRER: One moment, Your Honor.

24 (Brief pause)

25 BY MR. NIEWOEHRER:

1 q You were asked some questions about what happened
2 on December 3rd in the fundraising office, do you
3 recall that?

4 A Yes.

5 q You and the defendant agreed on how you were
6 going to talk to John Johnston, is that correct?

7 A Yes.

8 q You went through the potential conversations and
9 agreed as to how you would send a message to John
10 Johnston, is that right?

11 A Yes.

12 q That was something that the -- you understood the
13 defendant wanted you to go and do?

14 A Correct.

15 MR. NIEWOEHNER: Nothing further, Your Honor.

16 RECROSS EXAMINATION

17 BY MR. SOROSKY:

18 q Mr. Niewoehner asked you a question where the
19 governor said in this meeting with Krozel that he's
20 going to announce the 1.8 billion-dollar program
21 immediately or soon and then after the first of the
22 year he's going to do the 5-billion-dollar program,
23 is that correct?

24 A Correct.

25 q And I misspoke if I said "1.8 million," I meant

1 1.8 billion, is that correct?

2 A Correct.

3 q And the governor was arrested and charged with
4 these issues here on December 9th, is that correct?

5 MR. NIEWOEHNER: Objection.

6 BY MR. SOROSKY:

7 q 2008, right?

8 THE COURT: Come over to the side and tell me
9 where you're going with this.

10 (Proceedings heard at sidebar on the record.)

11 MR. SOROSKY: The government has consistently
12 made a point throughout its case that the governor
13 promised to do a 1.8 billion-dollar program
14 immediately, the billion dollar program immediately
15 and a 5-billion-dollar program next year, and he was
16 extorting Krozel and the road builders because he
17 wouldn't do this program unless they gave him a
18 contribution, we just want to establish to the jury
19 if he got arrested and charged and therefore he
20 couldn't possibly do the program after he just said
21 he got arrested and therefore couldn't possibly do
22 the program and never had an opportunity to do the
23 program.

24 THE COURT: When was he degovernored.

25 MR. SOROSKY: When was he what?

1 THE COURT: Degovernored.

2 MR. SOROSKY: Degovernored? You mean
3 impeached?

4 THE COURT: Yeah.

5 MR. SOROSKY: I would say late January. They
6 would know the exact date.

7 THE COURT: And he had late January to
8 announce it.

9 MR. SOROSKY: Well, I would also add, too,
10 you know, what's the ol' expression, what's good for
11 the goose is good for the gander, I don't know where
12 that expression comes from, but if we can't mention
13 anything after December 5th or December 8th why
14 should they have the advantage of saying, impliedly
15 saying, oh, he didn't do something?

16 THE COURT: You want to speak to this?

17 MR. NIEWOEHNER: Your Honor, we focused
18 everything before December 9th, all the questions
19 and public announcements are December 9th, we never
20 suggested anything beyond that time frame, for the
21 same reasons we moved on Children's Memorial
22 Hospital on --

23 THE COURT: Yeah, I don't think they have
24 enough. On top of it, it doesn't do you any good
25 because if he's soliciting campaign contributions in

1 exchange for some program, if he's not, then that's
2 fine, if he is soliciting campaign contributions to
3 such programs, the fact that he kept his promise
4 does not bear on his possible innocence, it's more
5 like evidence of guilt. I don't see where this gets
6 you. It's like, okay, I got to do it, maybe he's
7 fishing for some more stuff. Now, there are ways
8 for it to come in that you could possibly get this
9 into your case, but not -- this is an inference, at
10 best, goes both ways, so it's out.

11 Do you have anything else you're going to ask
12 so we can get the rulings on the side? Because he
13 was fairly narrow.

14 MR. SOROSKY: No, we're fine.

15 THE COURT: Okay.

16 (Proceedings resumed within the hearing of the
17 jury.)

18 BY MR. SOROSKY:

19 Q Two things: First, this racetrack loss of \$9,000
20 a day, remember you talked about it to some extent?

21 MR. NIEWOEHNER: Objection.

22 MR. SOROSKY: I'm just talking about that
23 topic, I haven't asked the question.

24 THE COURT: What we have here is his
25 assertion that this was his client's belief, and

1 we're going to leave it at that.

2 MR. SOROSKY: Okay.

3 BY MR. SOROSKY:

4 Q Okay, just so we're clear, this loss of \$9,000 a
5 day was merely Mr. Johnston's belief, isn't that
6 correct?

7 MR. NIEWOEHNER: Objection.

8 THE COURT: The objection to the form of the
9 question is sustained. You could leave out the
10 "merely" and I'd let you ask it.

11 BY MR. SOROSKY:

12 Q This possible -- or this loss of \$9,000 a day was
13 Mr. Johnston's belief?

14 A That's what he told me.

15 Q Right. You don't know that as a fact?

16 MR. NIEWOEHNER: Objection.

17 THE COURT: Sustained.

18 BY MR. SOROSKY:

19 Q Now, one last area of questioning and then we're
20 through. 70 to 90,000 dollars from Mr. Rezeko, I
21 believe when Mr. Niewoehner first questioned you
22 just two minutes ago, you said it was a gift, is
23 that correct?

24 A Yes.

25 Q And then you said you justified this gift as the

1 possible advance payment for future work, is that
2 correct?

3 A Right.

4 q Well, when you get paid for work you have to pay
5 taxes, do you not, Mr. Monk?

6 MR. SCHAR: Objection.

7 THE COURT: This has actually been asked and
8 answered and it wasn't specifically gone into on
9 redirect examination.

10 BY MR. SOROSKY:

11 q Just so we're clear, and this is the last
12 question, while you justify this money as an advance
13 payment to justify receiving it, that justification
14 didn't occur for paying taxes on the money, did it?

15 MR. NIEWOEHNER: Objection.

16 THE COURT: Same ruling.

17 MR. SOROSKY: Nothing further.

18 THE COURT: We're going to take a short break
19 now.

20 THE MARSHAL: All rise.

21 (The following proceedings were had out of the
22 presence of the jury in open court:)

23 THE COURT: Please be seated.

24 Time for an offer a plea, if you want to make
25 one.

1

2

VOIR DIRE EXAMINATION

3 BY MR. SOROSKY:

4 Q Mr. Monk, you testified throughout this trial
5 when the government questioned you about your
6 understanding of certain conversations, is that
7 correct.

8 A Yes. Yes.

9 Q And without going into each specific question,
10 would it be accurate to say the government would
11 play a tape, words would be spoken, and first you
12 would relate the words that would be spoken and then
13 you would relate your understanding of those words,
14 is that correct?

15 A Yes.

16 Q And just take one example, there was one
17 conversation when you and the governor were talking
18 and either you said to the governor or the governor
19 said to you, "tell Mr. Johnston these are two
20 separate conversations"? Do you remember a topic
21 like that being discussed?

22 A Yes.

23 Q And two actual wording, two separate
24 conversations would imply that the conversation for
25 receiving a campaign contribution was completely

1 unrelated to the conversation about signing the
2 racetrack bill, right? That's what the actual words
3 indicate, right?

4 A Right.

5 q However, you said your understanding was the
6 opposite of the spoken word, that your understanding
7 was that two separate conversations was just like a
8 ruse or a mirage, your understanding was the
9 governor really was relating the two, correct?

10 A They were being related. We were trying to
11 deliver a subtle message to the Johnstons.

12 q Right. That was your understanding.

13 A Uh-huh.

14 q And my little example here about the two separate
15 conversations, the wording of two separate
16 conversations, occurred a number of times throughout
17 your direct examination on different spoken words,
18 correct?

19 A Yeah.

20 q Now, after Governor Blagojevich was arrested and
21 charged, you and your lawyer went in and cooperated
22 with the government, right?

23 A Correct.

24 q And you had over 30 sessions or meetings or
25 debriefings with the government, right?

1 A Prior to the first trial, yeah.

2 q And all these understandings that you testified
3 to were hashed and developed after you started
4 cooperating with the government?

5 MR. NIEWOEHNER: (Counsel standing.)

6 THE COURT: You know, there's no jury here.
7 You can forget the ruffles and flourishes.

8 BY MR. SOROSKY:

9 q Well, did you ever tell anyone these
10 understandings of the government conversation before
11 you started cooperating with the government?

12 THE COURT: He's talking about anyone in the
13 world.

14 MR. NIEWOEHNER: Your Honor, again, it's such
15 an overbroad question.

16 THE COURT: Well, let me rephrase your
17 question.

18 MR. NIEWOEHNER: Attorney-client privilege,
19 as well, Your Honor.

20 MR. SOROSKY: I'm not talking about his
21 lawyer. I don't want to pierce the attorney-client
22 privilege. Didn't mean to do that in any way.

23 THE COURT: So anything that's privileged. I
24 mean, there is an obvious question, keep asking away
25 and if you don't ask it, I'll ask it.

1 MR. SOROSKY: Well, you could ask it and
2 it'll save time.

3 THE COURT: Did you ever share your view with
4 any other person involved in Friends of Blagojevich?

5 THE WITNESS: Regarding my understanding of
6 my conversations with Rod, my potential
7 conversations?

8 THE COURT: Yeah.

9 THE WITNESS: No.

10 THE COURT: Did you ever do it with anybody
11 else associated with the governor or his staff? Did
12 you ever voice, for example, this to Harris?

13 THE WITNESS: No.

14 THE COURT: Okay. Go ahead.

15 BY MR. SOROSKY:

16 Q Did you ever voice this view to anyone else --
17 we're not talking about your lawyer, I mean anyone
18 else the judge or I have not specifically referred
19 to or mentioned prior to your cooperating with the
20 government?

21 MR. NIEWOEHNER: Again, your Honor, such an
22 overbroad question, and what is the significance?

23 THE COURT: What did you say? I didn't hear
24 you.

25 MR. NIEWOEHNER: I mean, such an overbroad

1 question, what would the possible relevance be?

2 THE COURT: Start over. Start with the core
3 question.

4 BY MR. SOROSKY:

5 q Did you ever voice this understanding or these
6 understandings, that you related in your direct
7 testimony, to any other person involved in this case
8 prior to you cooperating with the government?

9 A No.

10 q And these understandings are certainly a way that
11 you could help yourself with the government, are
12 they not?

13 MR. NIEWOEHNER: Objection.

14 THE COURT: Answer the question.

15 BY THE WITNESS:

16 A Could you ask the question again?

17 BY MR. SOROSKY:

18 q These understandings that you had -- let me begin
19 with another question. These understandings that
20 you have are all anti and against Blagojevich, are
21 they not?

22 A Yes.

23 q And certainly being against Blagojevich is a way
24 you could help yourself with the government,
25 correct?

1 A Yeah.

2 q And these understandings, and by you helping
3 yourself with the government, that's a way of
4 helping you with your crimes, isn't it?

5 A what's going to help me is --

6 q Mr. Monk, I think that calls for a yes or no
7 answer.

8 THE COURT: He can answer it any way he wants
9 to, this is an offer of proof, and we're going to
10 get to it, anyway.

11 MR. SOROSKY: I stand corrected.

12 THE COURT: Go ahead.

13 BY THE WITNESS:

14 A what's going to help me is to live up to my end
15 of the bargain of the plea agreement, which is to
16 cooperate and tell the truth.

17 BY MR. SOROSKY:

18 q I'm talking about before you reached your
19 agreement, you certainly knew going in to your
20 conversations with the government or interviews with
21 the government that Blagojevich was target number
22 one, didn't you?

23 A Yes.

24 q And you knew that anything you said against
25 Blagojevich would certainly help you with the

1 government, didn't you?

2 A Yes.

3 q And you also knew that you were looking for some
4 help from the government and mercy, were you not?

5 A Yes.

6 q And you certainly knew that anything you said or
7 any information you related, which was against
8 Blagojevich, would certainly help you with your
9 problems, didn't you?

10 A Any information I have them that I had is what
11 they were asking for.

12 q I'm not questioning what the government was
13 asking for, I'm merely asking you, you knew that any
14 information you gave to the government, since it was
15 against Blagojevich, would certainly help you?

16 THE COURT: I think this question has been
17 answered.

18 BY MR. SOROSKY:

19 q Is the answer to that yes?

20 A I don't know.

21 q You don't know?

22 A I don't know, because they asked me to tell the
23 truth.

24 q Well --

25 THE COURT: You're asking him to predict the

1 government's reaction. The question you asked, the
2 answer you wanted, you got, when you asked him if he
3 understood that it could help him, and he said yes.

4 BY MR. SOROSKY:

5 q You say the government asked you to tell the
6 truth, is that correct?

7 A Yes.

8 q Now, would you agree that when you relate an
9 understanding as to a spoken phrase, like "two
10 separate conversations," that's subject to an
11 interpretation, is it not? A subjective
12 interpretation, is it not?

13 A Yes.

14 q And you certainly knew that any subjective
15 interpretation that you related unfavorable to
16 Blagojevich was something the government was --
17 something the government would find delightful,
18 didn't you?

19 MR. NIEWOEHNER: Your Honor, I haven't been
20 objecting to this but --

21 THE COURT: No, no, but this one is beyond
22 the pale. Now you're asking him to read the mind of
23 the government, the collective mind of the
24 government.

25 MR. SOROSKY: If I could just respond to your

1 question. Based on the interpretations that this
2 man has given, saying that one conversation is
3 completely the opposite of another --

4 MR. NIEWOEHNER: (Counsel standing.)

5 MR. SOROSKY: Hold on, hold on, let me
6 finish.

7 THE COURT: Go ahead.

8 MR. SOROSKY: I think he should be able to
9 answer the question, considering he's a law school
10 graduate, that he knew that any subjective
11 interpretation anti-Blagojevich that the government
12 would be happy with. And to say he doesn't -- to
13 say he is not aware of that is --

14 THE COURT: It's pointless at this point in
15 time.

16 Do you have another question? Because I'm
17 going to give the government a chance and then I
18 have a question.

19 MR. SOROSKY: No more the questions.

20 VOIR DIRE EXAMINATION

21 BY MR. NIEWOEHNER:

22 Q Mr. Monk, what's your understanding of what
23 you're supposed to do under your plea agreement?

24 A Cooperate and tell the truth.

25 Q Before you cooperated with the government, did

1 you know whether a particular information you had
2 would either help or hurt the government?

3 A Yes.

4 q Did you know how every piece of information could
5 actually help or hurt?

6 A No.

7 q Do you know everything the government knew?

8 A No.

9 q Did the government ever tell you you were
10 supposed to say certain things?

11 A No.

12 q So did you understand how the information you had
13 was necessarily going to impact the government's
14 case?

15 A No.

16 q You've given your testimony of understandings of
17 a range of conversations, is that right?

18 A Yes.

19 q Did you sit down with people before -- did you
20 have conversations about conversations you had with
21 the governor before you were cooperating with the
22 government --

23 MR. NIEWOEHNER: This shows how broadly the
24 questions are, Your Honor. Sorry.

25 BY MR. SCHAR:

1 q Bottom line, did you know how, what you thought
2 the government would -- if what you told the
3 government -- or what were you supposed to do in
4 your deal with the government?

5 A Tell the truth and cooperate.

6 q Whether that would help or hurt the government,
7 what's your responsibility?

8 A To tell the truth and cooperate.

9 MR. NIEWOEHNER: Nothing further, Your Honor.

10 THE COURT: Am I correct that your
11 understanding of the governor's conversation with
12 respect to Johnston was that Johnston should
13 understand, even if he did not exclusively say this
14 to him, that a prompter signing of the Recapture
15 Bill would be influenced by the giving and the size
16 of contribution, was that your understanding?

17 THE WITNESS: Yes.

18 THE COURT: And that's basically what you
19 were supposed to convey, however you did it, to
20 Johnston, is that correct?

21 THE WITNESS: Yes.

22 THE COURT: At the time you understood that
23 this was what you were supposed to do, did you think
24 this was both proper and legal for you to do?

25 THE WITNESS: No.

1 THE COURT: Okay. I'm done.

2 You can step down.

3 (Witness excused.)

4 THE COURT: My ruling, I don't think one can
5 draw an adverse inference from the witness'
6 statement of his understanding being made
7 exclusively for the first time to some outsider,
8 some non-privileged person, be made to the
9 government and not someone else.

10 This is someone who knew what he was doing
11 was wrong, and to use Mr. Sorosky's reference, he's
12 a lawyer, and I don't think you could reasonably
13 expect him to say it to somebody else when he knew
14 he was doing something wrong.

15 So the offer of proof is made, I'm not
16 changing my rulings.

17 who's next?

18 MR. NIEWOEHNER: John Johntson.

19 THE COURT: Okay, you want to talk about him,
20 too?

21 MR. NIEWOEHNER: Your Honor, you had asked a
22 factual question at the end of the day yesterday.

23 THE COURT: Right. Yeah. What he was
24 actually losing as opposed to what he thought he was
25 losing.

1 MR. NIEWOEHNER: Your Honor, what I've gotten
2 is a Seventh Circuit opinion which walks through the
3 chronology of some of the underlying lawsuits. I
4 can either give it to you or there are some
5 notations on it and I can tell you the dates of what
6 I think you were asking about.

7 THE COURT: Tell me.

8 MR. NIEWOEHNER: The law as originally passed
9 I think were -- the original lawsuit in 2006 was
10 filed four days after the bill was signed.

11 THE COURT: Yeah.

12 MR. NIEWOEHNER: It was filed in Will County
13 court, that worked its way through state courts. In
14 the summer of '08 the Supreme Court of Illinois came
15 down and ruled that the statute -- that the casinos
16 were challenging and the casinos lost, effectively.
17 So that is the status as of the time period of our
18 events that matter.

19 In January of '09, there was a cert.
20 petition on that. The money was still stayed, the
21 money never got released during our time period. So
22 the 2008 bill becomes law December 15th, and the
23 defendant signs it, and there's a lawsuit filed
24 against that on January 8th of 2009, which is
25 still -- that's filed in state court originally and

1 ultimately both of those two end up in federal court
2 where they are still going. My understanding of the
3 money in 2006 -- I don't have the precise date on
4 this.

:09PM

5 THE COURT: That's fine.

6 MR. NIEWOEHNER: But the money was collected
7 and put in the fund from the beginning, it's never
8 been released, it's move effectively to a separate
9 escrow fund that has been held up ever since.

:09PM

10 THE COURT: An interest bearing account?

11 MR. NIEWOEHNER: I don't know.

12 THE COURT: Okay.

13 MS. KAESEBERG: According to just on the
14 factual issue, just one thing to make clear is that
15 our understanding that the money was immediately
16 paid in protest by the casinos.

:09PM

17 THE COURT: Yeah, that's what they do.

18 MS. KAESEBERG: Immediately.

19 THE COURT: Yeah.

:09PM

20 MS. KAESEBERG: But I think as to one extent,
21 you know, we're sort of losing, what's the phrase,
22 the forest by the trees, or we're getting caught up
23 in this minutia --

:10PM

24 THE COURT: I asked this out of curiosity,
25 because the underlying issue is this, if Johnston

1 believes he's losing 9,000 a day, and he's wrong
2 about it but he believes it, the issue is whether
3 they are using his erroneous belief to get him to
4 contribute money.

:10PM 5 So that's basically what we're dealing with
6 and the issue is the level to which you can deal
7 with Johnston's belief and challenge his belief, and
8 that's, basically, what we're talking about here.

:11PM 9 MS. KAESEBERG: Right. I mean, that's what
10 we're arguing we should be able to get into all
11 these other facts. It's up to the jury to decide
12 whether or not they find Johnston credible when he
13 says that he believes that he was suffering a loss.

:11PM 14 THE COURT: But tell me how you're going to
15 challenge this.

:11PM 16 MS. KAESEBERG: Well, because the questions
17 about the bill pending for all these months in the
18 legislature and the concept that it went into
19 escrow, just all these other factors that's in our
20 motion --

:11PM 21 THE COURT: So wait, wait. What you intend
22 to do, if I grasp this correctly, is, you couldn't
23 possibly have believed it's \$9,000 a day because the
24 money got held up at the previous bill? Because he
25 doesn't know exactly what's going to happen with the

1 2008 bill, and nobody knows what's going to happen
2 with the 2008, so you're all, I think, have to
3 reason from his acknowledge of what happened with
4 the 2006 bill?

5 MS. KAESEBERG: To a degree, yes. I mean, I
6 think the issue that Johntson is a very
7 sophisticated participant in this whole process. He
8 is a lobbyist himself, he's hired a lobbyist, he
9 understands exactly what happened with the 2006
10 bill, and he knows that all of that money went into
11 an escrow account, he knows that once the bill
12 became effective on that effective date a two year
13 period began to run. It's not that on every day the
14 bill is not signed, that's an absolute loss, it's
15 just that the money doesn't start getting collected
16 until the effective date. And Johnston also, in his
17 sophisticated experience, in that he is a
18 sophisticated participant, he knows that the
19 governor has 60 days within which to sign the bill,
20 there's no immediate duty on the governor to sign
21 the bill that day.

22 The way the government presents these facts
23 is really half-truths. It's not the full truth,
24 it's not the full picture of the jury.

25 THE COURT: What are the 60 days have to do

1 with it?

2 MS. KAESEBERG: What?

3 THE COURT: What are the 60 days have to do
4 with it?

5 MS. KAESEBERG: Well, that's just another
6 issue, is that the government puts this piece of
7 their case on as if the date that it arrives in the
8 Governor's office there's some duty that he has to
9 sign it that day.

10 THE COURT: I think you're reading something
11 into the government's case that isn't there, and
12 this is the third, fourth time you've done this. I
13 don't think the government is operating on the
14 premise that he had to sign it. I think the
15 government is operating on the premise that he had a
16 former Chief of Staff, now a lobbyist, saying please
17 sign it now for my client, and then the governor
18 starts talking about campaign contributions, and
19 what's at issue is not that the governor has some
20 duty to sign it right away, but there are
21 conversations, recorded conversations, that seem to
22 indicate that the governor is somehow linking his
23 signing it with the issue of contributions. Now,
24 the premise that he had 60 days to sign it, this
25 plays no part in the government's analysis.

1 MS. KAESEBERG: No, but I think that the way
2 it's presented when we argued it before Your Honor
3 is the full truth of it. And, respectfully, I
4 believe they're being intellectually dishonest in
5 the way that they elicited the facts from their
6 witnesses, because the way that it can be perceived
7 and I believed is being perceived by the jury is not
8 the full picture and that's what we're trying to put
9 in.

10 THE COURT: Yeah, but this is, like, very
11 general language. I don't believe that the
12 government has taken the position that he should
13 sign it immediately and that he has no right to
14 delay. So if you think that the government is
15 arguing that he was under some duty to sign it as
16 soon as he possibly could, you are wrong, that is
17 not the government's argument. And were it to be
18 the government's argument, I would refuse to let
19 them make it.

20 So what seems to me and what I am at least
21 now willing to let you do is challenge Johnston's
22 belief that it's \$9,000 a day on the grounds of
23 whatever knowledge he has with respect to what
24 happened with the 2006 bill.

25 Now, there's a premise here, and the premise

1 is that he was fully aware of it.

2 MR. NIEWOEHNER: Your Honor, we're not going
3 to elicit whether he believed it or not, because it
4 doesn't matter. All that matters is that Johnston
5 said that to Monk, he said we're losing \$9,000.

6 THE COURT: I see your point.

7 MR. NIEWOEHNER: So it's what matters to the
8 defendant that matters, and the only information
9 that's indicated there that is coming in is that it
10 was \$9,000 a day in the recorded call from Monk. So
11 they want to impeach Johnston on something that's
12 not at issue and irrelevant. We're not arguing --
13 all year asking --

14 THE COURT: Okay, what I'm going to do is,
15 I'm going listen to his direct, then we're going to
16 recess and you're going to tell me what doors you
17 think have been opened, because I can't make this
18 decision on the basis of your general discussion,
19 and I don't want to make a decision until hear
20 specifically what he has to say and how he says it.

21 MS. KAESEBERG: I think as a general matter,
22 very, very briefly, is that the credibility of these
23 witnesses that's at issue. Johnston says plainly
24 that they were losing \$9,000 a day, he communicated
25 that to Monk and if he doesn't believe it to be

1 true, that's a credibility issue for the jury to be
2 aware of. And so I think with all of these
3 witnesses, it's part of this general principle that
4 we're not being allowed to ask them questions that
5 go directly to their credibility.

6 THE COURT: And Johnston tells the governor
7 he's losing \$9,000 a day?

8 MS. KAESEBERG: If he told Monk that he's
9 losing \$9,000 --

10 THE COURT: No, no, no, I'm talking about
11 Johnstson saying it to the governor.

12 MR. GOLDSTEIN: He communicated, we know, to
13 Monk and through the wiretaps Monk communicated to
14 the governor. I completely agree with the
15 government on the issue of Johnston raising, and I
16 think that's the fundamental point, Johnston
17 introduced the \$9,000 a day loss, he introduced that
18 as a factor into signing the bill. He brought that
19 specific issue --

20 THE COURT: Right, because you opened up or
21 your co-counsel opened up with the proposition that
22 he's a sophisticated guy. So your proposition is
23 he's sending a messenger back to the governor
24 asserting a disastrous consequence if his bill isn't
25 signed, which is pretty much what lobbyist do on all

1 issues, and for this reason you can challenge his
2 original assertion. Their comment is is it doesn't
3 matter what he said, and, frankly, it doesn't even
4 matter what Monk says because Monk being a lobbyist
5 can say they're losing \$9,000. If, for example, the
6 governor had said or the governor believes, and,
7 theoretically, if the day ever came the governor
8 could testify: I knew the \$9,000, you know, I knew
9 all about 2006, I knew this stuff about 9,000 a day
10 was just a bunch of hot air, but, you know, if
11 that's what he's telling me, my response is is give
12 me the money and then you don't have to worry about
13 it. And this is the Government's point about what
14 matters is what your client was thinking.

15 I do not recall listening to any of the tapes
16 in which your client said something to the effect,
17 oh it's not 9,000 a day. And, indeed, the
18 government can argue that his conduct was consistent
19 with his own misunderstanding that it was \$9,000 a
20 day.

21 So, basically, I think I'm not going to let
22 this stuff in with Johnston, but this still leaves a
23 fairly open door for you, it's just not with this
24 guy. But let me hear what he has to say, because I
25 could be wrong about what it is he's saying. So

1 that's the way we'll do it and I'll call a recess
2 and then we can raise the issue, okay?

3 MR. SCHAR: Judge, I don't know if we'll get
4 to the next witness today, but before the next
5 witness, certainly before cross-examination -- I
6 think, each of the witnesses coming up there's
7 something that we need to address.

8 THE COURT: So who is the next witness?

9 MR. SCHAR: Dr. Feinstein from the Chicago
10 Academy.

11 THE COURT: Okay. You want to bring
12 something up about that? Feinstein, you have
13 something about him?

14 MR. SCHAR: Why don't we address it if we get
15 to him today. I think it probably be only an issue
16 on cross-examination.

17 THE COURT: Feinstein is the next witness?

18 MR. SCHAR: After Johnston.

19 THE COURT: Okay. That's fine.

20 MR. SCHAR: And I think there were a number
21 of issues Mr. Niewoehner wanted to raise, maybe go
22 into some type voir dire related to how much of what
23 he made, salary, and all the things that we dealt
24 with Magoon and Krozel, but I'm not sure if you --

25 THE COURT: No, we don't have to deal with

1 that yet. we'll deal with that Johnston.

2 MR. SOROSKY: If you want, since Feinstein is
3 a shorter witness, do you want to do Feinstein and
4 Johnston tomorrow?

5 MR. SCHAR: I think we'll decide the order in
6 which we go in.

7 MR. SOROSKY: I just wanted to ask for
8 scheduling, how long do you anticipate going.

9 MR. GOLDSTEIN: How long will we go, Your
10 Honor?

11 THE COURT: We'll go to 4:30, possibly even
12 5:00 today.

13 How many witnesses do you have left?

14 MR. SCHAR: Today or total?

15 THE COURT: Total.

16 MR. SCHAR: Potentially five, I think.

17 THE COURT: Okay.

18 MR. SCHAR: But most of them are going to be
19 shorter.

20 THE COURT: Okay. That's fine.

21 We'll start again in about five minutes.

22 (Recess.)

23 THE MARSHAL: All rise.

24

25

1 (The following proceedings were had in the
2 presence of the jury in open court:)

3 THE COURT: Please be seated.

4 It's time to call the next witness.

5 MR. NIEWOEHNER: Your Honor, the government
6 calls John Johnston.

7 THE COURT: Face me and raise your right
8 hand.

9 (Witness duly sworn.)

10 THE COURT: Please be seated.

11 JOHN JOHNSTON, GOVERNMENT WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. NIEWOEHNER:

14 Q would you please state your name and spell it,
15 please.

16 A John Johnston, J-o-h-n-s-t-o-n.

17 Q How old are you?

18 A 49.

19 Q where do you currently live?

20 A Hinsdale, Illinois.

21 Q what is your current occupation?

22 A I am president of Maywood Park and Balmoral Park
23 racetracks.

24 Q And is the Maywood Park Racetrack owned by the
25 Maywood Park Trotting Association, Incorporated?

1 A Yes.

2 q And is the Balmoral track owned by the Balmoral
3 Racing Club, Incorporated?

4 A Yes.

5 q Do you and your family have ownership interest in
6 those two companies?

7 A Yes, we do.

8 q What do those two companies do?

9 A They conduct horse racing at each of the
10 facilities.

11 q Where are those racetracks located?

12 A Maywood Park is located in Melrose Park, Illinois
13 and Balmoral Park is located in Crete.

14 q How long have you worked with the tracks at those
15 two locations?

16 A Over 20 years.

17 q What's your current responsibilities with respect
18 to those two tracks?

19 A I have general management oversight for both
20 facilities.

21 q About how long have you been primarily
22 responsible for running those tracks?

23 A Approximately 8 to 10 years.

24 q Do you have an agreement with the government that
25 governs your testimony today?

1 A I do.

2 q Is it an immunity agreement?

3 A Yes, it is.

4 q What do you understand the immunity agreement to
5 mean?

6 A That I come here before the Court today and
7 testify in a straightforward honest manner and if I
8 breach that oath, that I could be prosecuted.

9 q If you lie does the immunity agreement protect
10 you?

11 A No.

12 q Have you met Rod Blagojevich?

13 A I have.

14 MR. NIEWOEHRER: Is there a stipulation to
15 identity?

16 MR. GOLDSTEIN: So stipulated.

17 BY MR. NIEWOEHRER:

18 q Did the Illinois -- I'm going to turn your
19 attention to November of 2008.

20 Did the Illinois legislature pass a bill
21 relating to the horse racing industry in November
22 of 2008?

23 A Yes, it did.

24 q What did the bill do?

25 A The bill put a tax for Chicagoland riverboat

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1 casinos and that revenue from that tax was to be
2 earmarked for the racing industry.

3 MR. NIEWOEHNER: Your Honor, may I approach?

4 THE COURT: You may.

5 BY MR. NIEWOEHNER:

6 q I'm going to show you what has been marked
7 Government Exhibit Racetrack 3.

8 MR. NIEWOEHNER: Move to admit that exhibit
9 into evidence pursuant to 90211 certificate.

10 MR. GOLDSTEIN: No objection.

11 THE COURT: Admitted.

12 (Government's Exhibit Racetrack 3 was received
13 in evidence.)

14 MR. NIEWOEHNER: May we publish, Your Honor?

15 THE COURT: You may.

16 (Exhibit published to the jury)

17 BY MR. NIEWOEHNER:

18 q Mr. Johnston, if you could turn to the second
19 page of that exhibit.

20 And what does this exhibit show?

21 A It basically depicts that the bill that you were
22 just referring to passed the Illinois Senate and the
23 Illinois House on November 20th, 2008, and four days
24 later, after some procedural work was done, it was
25 sent to the governor's desk on November 24th, 2008.

1 q And after that procedural step took place on
2 November 24th, could the defendant sign the 2008
3 racing bill into law?

4 A Yes, he could.

5 q I'm going to take you back to 2006 for just a
6 moment.

7 was there a similar law to the 2008 racing
8 billed that passed in 2006?

9 A Yes, there was.

10 q And how many days did it take the defendant to
11 sign the 2006 racing law once it reached him for
12 signature?

13 MR. GOLDSTEIN: Objection; relevance.

14 THE COURT: Overruled.

15 BY MR. NIEWOEHNER:

16 q You want me to repeat the question?

17 A No, No. One day.

18 q Was there a bill-signing event for the 2006
19 racing bill when it was signed into law?

20 A No, there was not.

21 q I'm going to take you back now to the 2008 racing
22 bill.

23 when did you want the defendant to sign the
24 2008 racing bill into law?

25 A As soon as possible, starting November 24th.

1 q Under the 2008 racing bill, how long were casinos
2 supposed to make payment?

3 A Up to 3 years.

4 q And were there provisions in the 2008 racing bill
5 that could stop the payments before the 3-year
6 period?

7 A Yes, there were.

8 q Are you familiar with Lon Monk?

9 A Yes, I am.

10 q In November of 2008, was Monk working for you?

11 A Yes, he was.

12 q What was he doing?

13 A He was a lobbyist, consultant for us.

14 q Did you talk with Monk after the racing bill was
15 sent to the defendant for signature on
16 November 24th?

17 A I did.

18 q Did you talk to him more than once?

19 A Yes.

20 q And, generally, what did you say to Monk in those
21 conversations?

22 A The general subject matter was that the bill had
23 reached the governor's desk and if he could
24 encourage the governor to sign it as soon as
25 possible, that it would be beneficial to us.

1 q Did you tell Monk that the tracks would lose
2 money every day if the bill wasn't signed?

3 A I did.

4 q What did you say to Monk?

5 A I said that the bill lasts up to 3 years and it
6 meant \$4500 a day to each facility, or \$9,000 total,
7 and that benefit not just us but the entire racing
8 industry began once the governor signed the bill.

9 q I'm going to direct your attention to
10 December 3rd, of 2008.

11 Did you go to work that day?

12 A I did.

13 q Where?

14 A Maywood Park.

15 q Did you have any plans to meet with Monk that
16 day?

17 A No, I did not.

18 q Did you speak with Monk that day?

19 A I did.

20 q Initially, did you meet -- did you speak with him
21 over the phone?

22 A Yes.

23 q Have you reviewed the recordings of two phone
24 calls that you had Lon Monk that day, on December
25 3rd?

1 A Yes, I have.

2 q Focusing on the second call you had that day,
3 what do you recall Monk saying to you about
4 physically where he was?

5 A He had told me that he was at the Friends of
6 Blagojevich, Ravenswood downtown Chicago office, and
7 he asked me for directions of what he thought the
8 quickest way it would be to the track from that
9 office.

10 q Did Monk then come to see you at the Melrose
11 track that day?

12 A He did.

13 q Who met with him?

14 A Myself, Lon, and Billy Johnston.

15 q Who is Billy Johnston?

16 A He's my father.

17 q Who invited your father?

18 A I did.

19 q Where in your offices did you meet with your
20 father and Mr. Monk?

21 A In the conference room.

22 q What did you discuss with Monk while your father
23 was present?

24 A Just some small chitchat. The legislation, and
25 basically we started to get into it and we -- we

1 said we basically covered these matters before and
2 it was -- it was a short conversation, it didn't
3 last more than 5 or 10 minutes.

4 q Did you talk about some social matters, as well?

5 A Yes.

6 q At some point did Monk leave the conference
7 room?

8 A He did.

9 q What happened when Monk left the conference room?

10 A When he left the conference room he kind of
11 signaled to me if he could have a word with me in
12 private.

13 q Did you understand that Monk didn't want to speak
14 in front of your father?

15 A That was my take on it, yes.

16 q Where did you and Monk go at that point in time?

17 A I went to walk him to the parking lot.

18 q And at some point as you walked out, did you talk
19 with Mr. Monk?

20 A Yes, we went down a stairwell and there's a
21 vestibule at the bottom of the stairs and he kind of
22 stopped and turned to me.

23 q Was anyone else present at that point?

24 A No, there wasn't.

25 q What did Mr. Monk say at that point?

1 A He turned to me and he said "one more thing," he
2 said, "I spoke with the governor and he's concerned
3 that if he signs the racing legislation you might
4 not be forthcoming with a contribution."

:47PM

5 q How did you respond?

6 A I kind of responded an agitated way. I said, "I
7 thought that's what the governor might be thinking
8 and the concept of a contribution at this point in
9 time is totally inappropriate."

:47PM

10 q what did Monk say in response?

11 A He turned to me somewhat recognizing my agitation
12 and he kind of put his hands together and he says,
13 "okay, different subject matter: I really need you
14 to get a contribution in by the end of the year."

:47PM

15 q what did you say after Monk asked for the
16 contribution by the end of the year?

17 A At that point I felt a very uncomfortable
18 situation. I told him, "look, I supported the
19 governor in the past, getting ready to go on a
20 family Christmas vacation" and tried to deflect any
21 further questioning, I shut the conversation down
22 and kinda pointed towards the door.

:48PM

23 q At that point did Monk leave?

24 A He did.

:48PM

25 q Now, I'm going to go back to the first thing that

1 Monk said to you in that conversation.

2 who did you understand -- when he said I
3 spoke with the governor and he's concerned if he
4 signs the bill you might not be forthcoming with
5 contribution, who did you understand that Monk had
6 spoken with?

7 A I understood him to have been -- to have spoken
8 to and speaking for at that point the governor.

9 Q And where did you understand Monk had been prior
10 to coming to meet you that day?

11 A He had told me he was coming from the Friends of
12 Blagojevich office, and he had come from that
13 office.

14 Q Who had control over the timing of when the
15 racing bill was signed?

16 A The governor.

17 Q Did anyone else have the power to do that?

18 A No.

19 Q What did you understand Monk to mean when Monk
20 said the governor is concerned that if he signs the
21 bill that you might not be forthcoming with the
22 contributions?

23 A I meant him to mean that the governor was very
24 interested in getting the contribution in as part of
25 the bill signing and I was very uncomfortable with

1 that.

2 q From what Monk said what did you understand the
3 defendant wanted to happen first?

4 A A contribution.

5 q When did Monk indicate the defendant wanted the
6 contribution by?

7 A By the end of the year.

8 q What did you think was going to happen if you did
9 not make a contribution before the end of the year?

10 MR. GOLDSTEIN: Objection.

11 THE COURT: Overruled.

12 BY THE WITNESS:

13 A That there would be, at a minimum, a delay in the
14 bill signing and possibly, you know, no signature at
15 all.

16 BY MR. NIEWOEHRER:

17 q What did you think was going to happen if you did
18 make the contribution?

19 A If I did make a contribution, they would, in all
20 likelihood, cash the check and very shortly
21 thereafter sign the bill.

22 q In response to Monk's first statement you said
23 something to the effect of "I thought this was what
24 he might be thinking," who were you referring to?

25 A The governor.

1 q And then when Monk sort of wiped his hands and
2 said "different subject," what subjects did you
3 understand he was referring to?

4 A The contribution and the signing of the
5 legislation.

6 q Based on what Monk said in that conversation, did
7 you believe that the contribution and the bill
8 signing were two different matters?

9 MR. GOLDSTEIN: Objection.

10 THE COURT: Overruled.

11 BY THE WITNESS:

12 A No, I did not.

13 BY MR. NIEWOEHNER:

14 q why not?

15 A Because he had just said that the governor was
16 concerned about signing the bill and may not be
17 forthcoming with the contribution, and in the very
18 next breath, even though he said "different subject
19 matter," he said "I need you to get a contribution
20 in by the end of the year. And just because he said
21 "a different subject matter," clearly, didn't make
22 it so.

23 q Did Monk leave after that conversation?

24 A Yes, he did.

25 q Did you talk with Monk again after that

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1 conversation?

2 A I never wrote a check, I never saw him again, and
3 I never spoken to him again.

4 Q In December -- you were aware that the defendant
5 was arrested on December 9th?

6 A Yes.

7 Q And did the defendant sign the racetrack bill by
8 December 9th?

9 A He did not.

10 MR. NIEWOEHRER: One moment, Your Honor.

11 (Brief pause).

12 MR. NIEWOEHRER: Nothing further.

13 THE COURT: We're going to take a short
14 break.

15 THE MARSHAL: All rise.

16 (The following proceedings were had out of the
17 presence of the jury in open court:)

18 THE COURT: Be seated.

19 Want to do an offer of proof with him first
20 now?

21 MR. GOLDSTEIN: That's fine, Your Honor.

22 THE COURT: Yeah, let's do it that way.

23

24

25

1 VOIR DIRE EXAMINATION

2 BY MR. GOLDSTEIN:

3 q Good afternoon, Mr. Johnston.

4 Get some water.

5 A Yes, I know.

6 q I need some, too.

7 (Brief pause.)

8 BY MR. GOLDSTEIN:

9 q Now, you met Mr. Blagojevich when he was running
10 for governor in 2002, is that correct?

11 A Yes.

12 q And you contributed to Rod twice in 2002, is that
13 correct?

14 A Best of my knowledge, yes.

15 q We can cut right to the chase, I'm going --

16 MR. GOLDSTEIN: If I may approach, Your
17 Honor?

18 THE COURT: Yes.

19 BY MR. GOLDSTEIN:

20 q I'm going to show you Government Exhibit
21 Racetrack 1, I believe you've seen this document.

22 Could you look at it and see if you recognize
23 this document?

24 A Yes.

25 q This document that I just showed you, this is a

1 chart of contributions, to the best of your
2 recollection, that you gave to Rod Blagojevich --
3 (Brief pause.)

4 while they're bringing it up let me ask, you
5 gave a significant amount of contributions to the
6 governor, is that correct?

7 A Yes, it is.

8 Q Okay. And what we have here is Government
9 Exhibit Racetrack 1, this is a detail of all the
10 contributions that you provided to the governor to
11 the best of your recollection?

12 A Correct.

13 Q And it indicates that the contributions started
14 in May of 2002 and continued through 2003, 2004,
15 2005, 2006, and 2007, is that correct?

16 A Yes.

17 Q And the approximate total of contributions that
18 were given to the governor was \$320,000, is that
19 correct?

20 A Yes.

21 Q And you've actually made hundred-thousand-dollar
22 contributions to the governor in the past, is that
23 correct?

24 A Yes.

25 Q And the last one was at the end of the year in

1 2007, is that correct?

2 A Yes.

3 MR. GOLDSTEIN: You can take that down.

4 Thank you.

5 (Brief pause.)

6 BY MR. GOLDSTEIN:

7 q The first bill that was passed in 2006, that
8 basically was the bill that took revenue from the
9 casinos and gave it to the racetrack industry, is
10 that correct?

11 A Yes.

12 q And you understood it was to last for 2 years, is
13 that correct?

14 A Yes.

15 q And that bill expired in May of 2008, is that
16 correct?

17 A Yes.

18 q And that period of time, from May 2006 to
19 May 2008, the revenue that you were supposed to get
20 never came to you, is that correct?

21 A Yes.

22 q There was basically a lawsuit, is that right?

23 A Yes.

24 q And then that money from the casinos was put into
25 an protest fund?

1 A Yes.

2 q And to this day you haven't received any money
3 from that bill, is that correct?

4 A Yes.

5 q And the bill for renewal in 2008 came before the
6 house in February of 2008, is that correct?

7 A I believe May.

8 q I'm going to put up on the screen, Mr. Johnston,
9 the bill that was signed in 2008, okay?

10 A Uh-huh.

11 q Now, this House Bill 4758, that's the renewal
12 bill for 2008, is that correct?

13 A Yes.

14 q Okay.

15 MR. GOLDSTEIN: Actually, you know, before
16 you scroll down, just stay at Page 1 for a second.

17 BY MR. GOLDSTEIN:

18 q Now, it says "house sponsors," is that right?

19 Do you see that, right under "short
20 description" it says "house sponsors"?

21 A I do.

22 q Okay. And it says Representative Robert Molaro,
23 is that right?

24 A Yes.

25 q And you have contributed to Mr. Molaro, is that

1 right?

2 A Yes.

3 q And, in fact, while this bill was before the
4 House and Senate, you were contributing to
5 Mr. Molaro, is that correct?

6 A I don't recall the exact dates and times of any
7 contributions I've given to representative Molaro,
8 but I have contributed to him in the past.

9 q Okay. And you're aware that you contributed to
10 Mr. Molaro in 2008, is that correct?

11 A No, I just said I'm not aware of the time and the
12 dates that I did, but I do acknowledge that I have
13 supported representative Molaro.

14 q And you also contributed to several members of
15 the legislature, is that correct?

16 A Yes.

17 q And your contributions to the Illinois
18 legislators occurred in 2008, is that correct?

19 A I don't -- I don't know what contributions I made
20 in 2008 off the top of my head. I do know that
21 whenever we do make a contribution, it is registered
22 and declared, I just don't have that list in front
23 of me.

24 q Now, you're familiar with the Racing Association
25 of Illinois, is that correct?

1 A Yes.

2 q Is that a facility that you're affiliated with?

3 A Yes.

4 q Okay. So have you given contributions to
5 politicians via the Racing Association of Illinois?

6 A Yes.

7 q And on October 25th, 2008, you gave a
8 contribution to State Senator James Clayborne, is
9 that correct?

10 A I don't know off the top of my head.

11 MR. GOLDSTEIN: If I may approach and see if
12 he can refresh his recollection?

13 THE COURT: Sure.

14 (Brief pause).

15 BY MR. GOLDSTEIN:

16 q I'm showing you a three-page document that
17 indicates contributions to Mr. Clayborne. I want
18 you to look through that document and see if it
19 refreshes your recollection as to whether you gave
20 contributions to Mr. Clayborne and when you gave
21 those contributions.

22 (Brief pause.)

23 BY MR. GOLDSTEIN:

24 q Is your memory refreshed?

25 A Yes.

1 q Did you give contributions to Senator Clayborne?

2 A Yes.

3 q And did you give a contribution to Senator
4 Clayborne on October 25th, 2008?

5 A According to that sheet, yes.

6 MR. GOLDSTEIN: Okay, and if you can scroll
7 down?

8 well, actually stop for one second. Sorry.

9 (Brief pause.)

10 BY MR. GOLDSTEIN:

11 q If you can look on this page of the bill, it
12 indicates that on February 4th, 2008, that this bill
13 was filed with the clerk by a Representative Raymond
14 Poe, do you see that?

15 It's about two-thirds of the way down.

16 Can you see that better now?

17 A Yes.

18 q Okay. And, actually, that same day was the first
19 reading of that bill, is that correct?

20 A Yes.

21 MR. GOLDSTEIN: And so one more page down,
22 please.

23 (Brief pause.)

24

25 BY MR. GOLDSTEIN:

1 q And so this indicates -- what you're looking at
2 right now is the fourth page of this bill history
3 and you could see the first date starts on April 8,
4 2008, is that correct? If you can see it.

:02PM

5 A Yes, I can see it.

6 q And the last date on that is November 19th, 2008,
7 is that correct?

8 A Yes.

:02PM

9 q Now, this bill was passed by the Illinois
10 legislature on November 20th, 2008, is that right?

11 A Yes.

12 q Now, less than a month before that, you gave a
13 contribution to State Senator Clayborne, is that
14 correct?

:02PM

15 A Yes, that was the date that was on that sheet you
16 showed me.

17 q And did State Senator Clayborne request that
18 contribution with you?

19 A No.

:02PM

20 q Did you just give it to him?

21 A Yes.

22 q Okay. And you did that while you knew this bill
23 was before the Senate and the House, is that
24 correct?

:03PM

25 A Yes.

1 q And the bill had not been passed by the State
2 Senate or the State House when you gave that
3 contribution to State Senator Clayborne, is that
4 correct?

5 A Yes.

6 q And not to belabor the point, but you have given
7 to other state legislators, you gave contributions
8 to them during the year of 2008, is that correct?

9 A I believe probably so, yes.

10 q Okay. And it was done while the bill was pending
11 before the House and Senate, is that correct?

12 A Yes.

13 q Now, when you gave the contribution to State
14 Senator Clayborne, were you connecting the
15 contribution to the passage of the bill?

16 A No.

17 q Did you understand that the contribution you
18 provided to the senator less than a month before
19 this bill was to be passed to be connected to
20 Mr. Clayborne voting for the bill?

21 A No.

22 q And when you gave contributions to these various
23 Illinois legislators throughout the year of 2008
24 while this bill was still pending, did you connect
25 the two, the contribution to signing of the bill, or

1 should I say voting for the bill?

2 A Could repeat that?

3 q When you provided contributions to these various
4 Illinois legislators while this bill was pending

:04PM

5 before them, did you see a connection between your
6 contribution and their vote on the respective bill?

7 A No.

8 q And is it fair to say that the people you
9 contributed to ended up voting for this bill?

:04PM

10 A You'd to have be more specific. I mean,
11 sometimes they do, sometimes they don't. We
12 generally support candidates that support our
13 issues, though.

14 q Certainly. Certainly.

:05PM

15 And your goal was not to contribute to
16 someone who you knew was going to vote against that
17 bill, is that correct?

18 A Yes, but sometimes it works out that way.

19 q Okay. And also the opposite is true, people that
20 you understand are against the bill, the

:05PM

21 contributions appears and they vote for that bill,
22 is that correct?

23 A Yes.

24 q And you never see a connection between your

:05PM

25 contribution and their voting for the bill, is that

1 correct?

2 A Correct.

3 MR. GOLDSTEIN: Just one more, Your Honor.

4 (Brief pause).

5 BY MR. GOLDSTEIN:

6 q And I think we can go into this on regular
7 cross-examination, but just to follow up on the
8 point: Your testimony today is that when Lon Monk
9 approached you on December 3rd, you saw a connection
10 between signing the bill and the contribution, is
11 that correct?

12 A Yes.

13 MR. NIEWOEHNER: (Counsel standing.)

14 MR. GOLDSTEIN: Was that an objection?

15 MR. NIEWOEHNER: Withdraw the objection.

16 BY MR. GOLDSTEIN:

17 q Now, on May 26th, 2008, it was your understanding
18 that the 2006 bill expired, is that correct?

19 A Yes.

20 q So from May 26th, 2008 up to November 20th, 2008,
21 that money that was supposed to come to you was not
22 coming to you, is that correct?

23 A Well, nothing was supposed to come to us, but, I
24 mean, there was nothing, there was no legislation,
25 it had expired and it hadn't been renewed.

1 q Okay.

2 A So we weren't expecting anything.

3 q Okay. But the bill expiring on May 26th; on
4 May 27th there was no money going even into a
5 protest fund, is that correct?

6 A Correct.

7 q And May 27th through November 24th, you weren't
8 receiving any money, whether it's in a protest fund
9 or to you directly, through this bill, is that
10 correct?

11 A That's correct. Yes.

12 q Did you raise the \$9,000 that you said you were
13 losing to any of these state legislators in between
14 May 27th, 2008 and November 20th, 2008?

15 A I don't believe that particular number, but
16 myself and others that represent the agriculture
17 industry and horse racing, in general, would
18 express, you know, generalization numbers in
19 totality.

20 q And you talked about this \$9,000 a day. Correct
21 me if I'm wrong, did you state that this was a loss?

22 A I didn't view it -- yes, it was a loss.

23 q Just if I can ask you about what you were going
24 to say. You didn't view it as a loss, is that a
25 fair statement?

1 A Well, there's different ways to interpret it. It
2 was being accrued in a protest fund, so we,
3 technically, were not receiving it, although we had
4 anticipation of receiving it at a future point in
5 time if we were victorious in contesting -- the
6 contesting of the bill.

7 Q And to this day, both the 2006 legislation and
8 the 2008 legislation still has not been resolved and
9 there's a protest fund, correct?

10 A Correct.

11 Q And nothing is going to you, is that correct?

12 A That's correct.

13 Q And it was May 27th, 2008 through November 20th,
14 2008, that nothing was happening because the bill
15 had not passed, is that correct?

16 A Yes.

17 Q And you communicated to Lon Monk that you said
18 you were losing \$9,000 a day, isn't that right?

19 A Yes, I communicated that to him in December
20 of 2008.

21 Q Okay. Is that the first time you communicated
22 that to Mr. Monk?

23 A Yes.

24 Q But you didn't see this as a loss, is that
25 correct?

1 A I didn't think about it as a loss at that point
2 because we weren't expecting the funds in any near
3 budgetary cycle because it was being put into a
4 protest fund and we thought at that point that -- I
5 did see it as a loss, yes, I saw it as a loss, and
6 that's why I told them I saw it as a loss, but, I
7 mean, there's different ways to view it.

8 Q Okay. I understand.

9 MR. GOLDSTEIN: Just one moment. I
10 apologize, Your Honor.

11 (Brief pause).

12 BY MR. GOLDSTEIN:

13 Q Why did you communicate to Lon Monk that you were
14 losing \$9,000?

15 A Because every day the governor didn't sign that
16 bill from the moment it hit his desk, we were losing
17 \$9,000 a day and I wanted him to encourage the
18 governor to sign the bill as soon as possible.

19 Q And is it a fair statement to say that every day
20 since May 27th, 2008, every day that passed by that
21 \$9,000 a day you say you were losing was naturally
22 lost as well, is that correct?

23 A (No response.)

24 Q I mean, nothing was --

25 A No, that's not correct, because it was

1 hypothetical. There's just pending legislation, it
2 was a perpetual issue. When I told Lon we were
3 losing \$9,000 a day, it was reality. I mean, the
4 bill had passed the State Senate and the State
5 House, it wasn't just a proposal or a thought in
6 somebody's imagination. It was sitting on the
7 governor's desk awaiting signature. It could become
8 reality at that point.

9 Q But that \$9,000 a day loss started May 27th,
10 2008, is that correct? Because the 2006 bill
11 expired, is that correct?

12 A Correct.

13 MR. GOLDSTEIN: One moment.

14 (Brief pause).

15 BY MR. GOLDSTEIN:

16 Q Mr. Johnston, you talked about this protest fund.
17 You knew that once the 2008 legislation was passed,
18 or you understood, that immediately there would be a
19 lawsuit, is that correct?

20 A We presumed that would be the case, yes.

21 Q And you understood that once this lawsuit which
22 would take place very soon after this bill was
23 signed, that that money would go into a protest fund
24 just like in the 2006 legislation, is that correct?

25 A Yes.

1 MR. GOLDSTEIN: Nothing further as to voir
2 dire, Your Honor.

3 VOIR DIRE EXAMINATION

4 BY MR. NIEWOEHNER:

5 q In the 2008 context, even if it went into an
6 escrow fund, were you still hoping you would get
7 that money some day?

8 A Yes, because there would be \$9,000 a day less
9 going into the protest fund.

10 q So some day you would get that \$9,000?

11 A Yes, that was our hopes.

12 MR. NIEWOEHNER: Nothing further.

13 (Brief pause).

14 VOIR DIRE EXAMINATION

15 BY MR. GOLDSTEIN:

16 q The \$9,000 a day that you would accrue once this
17 bill was passed, this would last for 3 years, is
18 that correct?

19 A Yes, sir.

20 q Okay. So whether it started December 1st or
21 January 1st, that money would continue to -- would
22 accrue for 3 years, is that correct, to your
23 understanding?

24 A Up to 3 years. There were provisions that would
25 prevent it from going the full 3 years.

1 q And you understood those provisions that would
2 prevent it from going 3 years would entail potential
3 situations in which the racetracks would receive
4 additional income, is that correct?

5 For example, for example --

6 A Two of them would, one of them wouldn't.

7 q Okay. For example, you could get video gaming in
8 the racetracks that would stop the stipend, is that
9 correct?

10 A Correct. Correct.

11 MR. GOLDSTEIN: Nothing further.

12 VOIR DIRE EXAMINATION

13 BY MR. NIEWOEHNER:

14 q The 2008 racing bill would last up to 3 years, is
15 that right?

16 A Up to 3 years.

17 MR. NIEWOEHNER: Nothing further, Your Honor.

18 THE COURT: why don't you step off the
19 witness stand, go off and stand outside those two
20 doors for a moment.

21 THE WITNESS: Okay.

22 (Witness temporarily excused and exited the
23 courtroom after which the following further
24 proceedings were had herein:)

25 THE COURT: Come to the lectern.

1 MR. GOLDSTEIN: Okay, there are a few things
2 raised, and I've raised this issue before, Your
3 Honor, and I'm not going to --

4 THE COURT: Just start.

5 MR. GOLDSTEIN: What is it?

6 THE COURT: Get to it.

7 MR. GOLDSTEIN: The issue is as to the other
8 contributions. Again, this is an individual who is
9 saying he felt uncomfortable, who is saying there
10 was a connection between the two. In exact

11 situations on the same subject, he indicated he saw
12 no connection. You know, the exact same situation.

13 THE COURT: Wait. Wait. How do we know it's
14 the exact same situation?

15 MR. GOLDSTEIN: He's giving contributions --

16 THE COURT: No, no, no. This is a situation
17 in which, from his perspective, the government's
18 representative does something that he regards as a
19 linkage or maybe it didn't happen on the previous
20 ones.

21 I mean, the problem is, we're dealing with
22 fine lines here, because you can be deeply worried
23 about the way some legislators are going to vote,
24 whether he's going to vote the way he's made
25 speeches about voting, you worry about that, you

1 give them money, he hasn't necessarily been quid pro
2 quo. Lots of campaign contributions are made simply
3 because they want somebody reelected. It's not the
4 same at the granular level of which we judge cases,
5 so I don't think it's the same.

6 So start from a different premise other than
7 the same, unless you can prove it's the same, and I
8 don't know about any of those guys being on your
9 witness list.

10 MR. GOLDSTEIN: As far as it being the same,
11 no two situations are exactly the same, but we have
12 a very similar scenario, and we have an individual
13 -- and Your Honor is 100 percent right, this is a
14 fine line, things are not necessarily quid pro quos.

15 what we have in this entire case is the
16 understanding of these individuals, and the
17 understanding is based on conversations that,
18 obviously, is painstakingly, as we've gone through
19 it, isn't communicated directly. So they're taking
20 understandings of, at the very best, indirect
21 communications.

22 And here is an individual again, just as
23 Mr. Magoon and just as Mr. Krozel, who is involved
24 in this fundraising or contributing --

25 THE COURT: Well, wait, wait, wait. You

1 didn't have real evidence with respect to Magoon.
2 You, obviously, did with Krozel. So why don't you
3 stick with Krozel.

4 MR. GOLDSTEIN: Well, not as much with
5 Johnston and Krozel to Magoon, but as to Magoon,
6 Magoon fundraised significantly. He didn't
7 fundraise to the degree of Johnston and Krozel, but
8 he fundraised.

9 THE COURT: I wouldn't really continue to
10 assert that. Just why don't you deal with Krozel
11 because he's a good example for you.

12 MR. GOLDSTEIN: Well, I'll stick with
13 Johnston because Johnston is before us, Your Honor.

14 And less than a month before this bill was
15 signed, as Mr. Johnston says, we are trying to
16 contribute to people who support our views. The man
17 was lobbying for a particular bill, he was
18 contributing to particular individuals who had a
19 bill before them, and he didn't see a connection
20 between the two. Is it the exact same situation?
21 It will never be the exact same situation, but it's
22 pretty darn close, pretty darn close of an
23 individual whose state of mind when he does not want
24 to contribute to the governor, and I'm not sure if
25 it was communicated in direct this time but it

1 certainly was in the last trial, "I had a lot of
2 reasons why I didn't want to contribute to the
3 governor having nothing to do with this situation,"
4 those could be other reasons why he's feeling
5 uncomfortable.

6 And, let's face it, as the government always
7 accuses us of putting the government on trial, it's
8 not really anything about that. We have an
9 individual who has an immunity agreement, he
10 certainly has, it may not be overtly but it's at
11 least indirectly, some pressure from the government,
12 a concern of being charged, and now being influenced
13 to communicate an understanding.

14 THE COURT: Would you like to talk
15 about--well, I'm assuming you're done with that part
16 of it--with respect to prior contributions, you want
17 to express a view?

18 MS. KAESEBERG: I have just some brief words
19 that Johnston gave on direct which I think are
20 relevant to this, that he said that "the contents of
21 a contribution at this time would be totally
22 inappropriate" and then he later said "I was very
23 uncomfortable with that," so based on those
24 assertions on direct, this should be able to asked
25 --

1 THE COURT: You can't prove the similarity of
2 the conversations. And the truth of the matter is,
3 that's not what's at issue here and that's not why
4 you want the evidence. You want the evidence
5 because you want to make that same argument you made
6 before that you can't condemn the governor because
7 everybody does it without ever proving that
8 everybody does it.

9 You could get some expert, you could --

10 MS. KAESEBERG: That is actually not
11 accurate.

12 THE COURT: Good. Then I'm glad to see that
13 you're not going to make it and I don't expect to
14 hear it in closing argument. The fact is, you can't
15 make that comparison, as I see it.

16 MS. KAESEBERG: But it's not about the
17 comparison, it's about --

18 THE COURT: No, no, no, no, I'm talking about
19 -- this is very difficult sometimes but I'm talking
20 about one aspect of this. I have not addressed the
21 issue as to his conversations with Monk and his
22 views on the \$9,000. I'm talking just about one
23 thing and that's the prior contributions, and I
24 don't think you can tie it to this case. I don't
25 think you've offered evidence and I'm not going to

1 let you do it.

2 Now, the other issue, and the government can
3 speak to this because this is where I'm -- well, I
4 don't know if you have an objection to this. I am
5 leaning to that aspect of the defense offer of proof
6 that spoke about what his discussion was in December
7 and what was going through his mind, and I don't
8 think you're particularly concerned about that. As
9 a matter of fact, you probably would introduce it
10 anyway, but that leads us, because he's going to
11 start talking about \$9,000 a day, that leads us to
12 the issue of the \$9,000 a day stuff, and you can
13 express your view on that one.

14 MR. NIEWOEHNER: Your Honor, we specifically
15 did not elicit whether he believed he was or wasn't.
16 The only thing that was elicited was did he say it
17 to Monk, and he did. Whether he believed it when he
18 told Monk or he didn't believe it when he told Monk,
19 it doesn't matter. His state of mind as to whether
20 he actually was or wasn't losing \$9,000 a day is
21 irrelevant.

22 THE COURT: But his testimony, interestingly
23 enough, was that he did believe it. Well, that's
24 fine, but then, of course, the issue is, if he did
25 believe it, is the defense entitled to point out on

1 cross or to point out by some other witness that he
2 actually may very well be wrong.

3 MR. SCHAR: But I think the issue is not
4 whether -- he may be wrong, but he's not lying about
5 it. He believes it, and that's what he
6 communicates. We didn't, obviously, in direct bring
7 out whether or not he believes it or not. In voir
8 dire he indicated he genuinely believed it, now they
9 want to bootstrap on to that a suggestion that, for
10 a variety of reasons, he should not have believed
11 it.

12 THE COURT: No, and this is the issue that we
13 want to --

14 MR. NIEWOEHNER: Right. They want extrinsic
15 evidence to prove up the supposed lie, which he's
16 going to deny. They can ask the question "when you
17 told Monk it was 9,000 a day, that was a lie, wasn't
18 it?" and he's going to say "no," and they're stuck
19 with that answer, they cannot prove up through him
20 or through anybody else that, in fact, he didn't
21 believe that.

22 MR. GOLDSTEIN: Well, can I challenge his
23 assertion that it's not a lie through
24 cross-examination?

25 MR. NIEWOEHNER: No, that's proving up

1 extrinsic evidence by --

2 MR. GOLDSTEIN: It's challenging --

3 THE COURT: It basically doesn't do you any
4 good to prove that he was wrong about the \$9,000 a
5 day. It does you some good to prove that he said it
6 was \$9,000 a day, may have told Monk it was \$9,000 a
7 day, but he didn't believe it, that's what might get
8 you somewhere, but the examination you conducted
9 here was an examination of somebody saying, well,
10 you're mistaken about it, there's this fact and
11 there's that fact, and this other fact and you
12 shouldn't have believed it.

13 MR. SOROSKY: Your Honor, if Mr. Johnston
14 would say "I believe my racetracks are the best in
15 the world" and let's say any reasonable person could
16 look at his racetracks compared to other race tracks
17 and say that --

18 THE COURT: And might possibly disagree.

19 MR. SOROSKY: Right. It's absurd, but he has
20 a right to believe his racetracks are the best. The
21 defense would not be hurt by that apparent and
22 obvious erroneous belief. However, Mr. Johnston has
23 testified or the government has presented evidence
24 that somehow we have done something wrong because
25 the racetracks are losing \$9,000 a day. We merely

1 want to be able to point out that this was maybe not
2 a percent accurate because all this money would go
3 into a protest fund and that he hadn't received
4 money even on the first Recapture Bill. So his
5 statement that he was losing \$9,000 a day doesn't
6 quite have all the teeth that it has, and, frankly,
7 our bringing this out would merely relate to the
8 jury the truth, and as Your Honor said many, many
9 times, we're here to relate to the jury the truth.

10 THE COURT: Actually, it's the relevant
11 truth.

12 MR. SOROSKY: Well, relevant truth, okay.

13 THE COURT: Okay. Now, in my notes on the
14 government's direct, I don't see an attack on the
15 grounds that they're doing actual harm to him with
16 \$4,500 for each track, and most of that came out on
17 the voir dire of the cross, maybe all of it came out
18 on the voir dire of the cross, but you do raise
19 another point, and that is whether the government is
20 going to actually contend in closing argument and
21 its theory of the case that what the governor did
22 was to cost Johnston \$9,000 a month.

23 MR. SCHAR: Judge, the argument we're --
24 well, I don't want to give the entire argument, but,
25 I mean, what the state of the evidence is, and ht

1 has always been, is that what Mr. Johnston
2 communicated was that it was his understanding
3 they're losing 9,000, Mr. Monk communicated that,
4 and there's a transcript to that.

5 So the argument, really what's at issue,
6 unrelated to Johnston at all, is what was in the
7 defendant's mind, because his intent is what the
8 jury will ultimately decide. And the argument will
9 be that based on what he was told, he understood
10 that there was pressure to be had because there was
11 \$9,000 a day that was being lost. So we're not
12 going to vouch as to whether that was accurate or
13 not, the issue is what did the defendant understand
14 or believed and that's based on what the evidence --

15 THE COURT: Your argument is that the
16 defendant thought he had leverage.

17 MR. SCHAR: Exactly.

18 THE COURT: And whether he had it or not is
19 immaterial.

20 MR. SCHAR: Exactly.

21 THE COURT: Okay, respond to that.

22 MR. SOROSKY: Well, first of all, how do they
23 know what the governor thought? They don't know
24 what the governor thought. Maybe the governor was
25 aware of the protest fund and --

1 THE COURT: No, I think what they're going to
2 argue is, listen to the recording and this shows
3 what the governor said, and from this the jury can
4 infer what he thought.

5 Now, there are other paths to differing
6 interpretations of that, which I'm assuming will
7 come up some time in your case, but the government's
8 position is, we can argue that he thought that he
9 had leverage and made an attempt to use it, and you
10 can offer evidence that he didn't think he had
11 leverage and that the conversations have somehow
12 been misinterpreted on the basis of evidence that
13 you may offer.

14 So that's where I stand on that one. Is
15 there anything else?

16 MR. SOROSKY: Can we at least ask him that he
17 was aware that all the money that the racetracks
18 would potentially receive from the first bill went
19 into a protest fund and they hadn't actually
20 received any dollars and that he reasonably believed
21 that that would happen with this bill?

22 THE COURT: I can't see how it's relevant in
23 the context of this case now. It could become
24 relevant later on, but I don't really think so.
25 This case is not going to be fought over whether

1 Johnston is out 9,000, whether he thought he was out
2 9,000, or whether he didn't think he was out 9,000.
3 It is an act in which the government is alleging an
4 attempted use of leverage and the defendant thought
5 he had that leverage, and they got enough to argue
6 that to the jury. They may not necessarily win, but
7 they got enough to argue that to the jury and that's
8 all that's relevant. So, basically, I don't like
9 anything in the voir dire.

10 MR. GOLDSTEIN: There's one other issue, and
11 I understand your ruling, and that was the
12 contributions to the governor, the prior
13 contributions.

14 THE COURT: Did he make contributions before?

15 MR. GOLDSTEIN: Correct.

16 THE COURT: And how would you use that in
17 closing argument?

18 MR. GOLDSTEIN: Well, it's relevant to go to
19 state of mind as to believing that the contributions
20 were given to the governor before. So this isn't
21 just some random, out of the blue, "oh, I got this
22 bill in front of me now, all of a sudden I'm going
23 to ask for a contribution from this individual,"
24 this is a relationship, over \$300,000 relationship,
25 from 2002 all the way through 2007. So it explains

1 the request for contributions separate and apart
2 from this bill.

3 MR. SOROSKY: And with all due respect,
4 that's the same position Mr. Johnston took when he
5 said, "oh, I give to Senator Clayborne, I give to
6 Senator Molaro."

7 THE COURT: I might very well admit this in
8 your case-in-chief, but not until I've had some
9 foundation for it. So that one at least I
10 understand your argument, but it's got to tie it to
11 something other than what they have already put in
12 this case.

13 So nothing, I don't like anything in voir
14 dire. Do you want to ask him anything else or do
15 you just want to leave it that way?

16 MR. GOLDSTEIN: In voir dire? No.

17 THE COURT: I mean, what else are you going
18 to ask him?

19 MR. GOLDSTEIN: In cross?

20 THE COURT: Yeah.

21 MR. GOLDSTEIN: I haven't asked anything.

22 THE COURT: You can tell me now because he's
23 out of here.

24 MR. SOROSKY: A lot of questions.

25 MR. GOLDSTEIN: A few questions.

1 Just going through the circumstances of what
2 he said under oath, you know, about the December 3rd
3 meeting and then --

4 THE COURT: So you're going to test his
5 recollection of the December 3rd meeting, that's
6 what you intend to do?

7 MR. GOLDSTEIN: Well, I mean, there's a lot
8 of things that he discussed, I don't want to front
9 exactly what my cross-examination is, but it's not
10 going to be anything having to do with the voir
11 dire, that's for certain. I understand, your
12 Honor's ruling.

13 THE COURT: Yeah. I mean, because it is of
14 some concern to me and I don't think you're fronting
15 anything because he's not in this room.

16 MR. SCHAR: We can't talk to him.

17 THE COURT: Yeah, they can't talk to him.

18 MR. GOLDSTEIN: Oh, I know you don't. You
19 just object.

20 MR. NIEWOEHNER: We might do that, anyway.

21 THE COURT: Yeah, there's a good chance.

22 MR. GOLDSTEIN: I understand that's going to
23 happen.

24 MR. SOROSKY: They've done that in the past.

25 MR. GOLDSTEIN: Just a few.

1 THE COURT: So just give me an idea.

2 MR. GOLDSTEIN: Here, he has a December 3rd
3 meeting, I want to ask him about that, what he
4 understood. I want to ask him about the
5 communications he had with Monk. I want to ask him
6 about the relationship he had with Monk and that
7 Monk was his lobbyist. I want to ask him about his
8 immunity agreement.

9 THE COURT: Okay, so far it's all right.

10 MR. GOLDSTEIN: I mean, the events leading up
11 from November 24th up to December 3rd, I want to
12 elicit how Monk asked him for contributions before,
13 in a relative time frame, not, you know, all the way
14 behind.

15 MR. NIEWOEHNER: And there's nothing on
16 direct about that.

17 THE COURT: Yeah.

18 MR. GOLDSTEIN: But he certainly talked about
19 requests for contributions.

20 THE COURT: No, he didn't.

21 MR. GOLDSTEIN: He didn't? I mean, it --

22 THE COURT: I want you to bear one thing in
23 mind, I have not excused a single witness. I told
24 them they can leave the stand, but I have not
25 excused them. So everybody is here under whatever

1 process they were and will be produced for you. So
2 we're not going to be outside the scope of the
3 direct. And there is an advantage to you because
4 you can present a nice cohesive defense with logical
5 steps in it as opposed to putting it in pieces where
6 somebody might forget.

7 So no, you can't go through -- December 3rd
8 was what you go through. And don't ask him to read
9 Monk's mind, ask him what he thought what Monk
10 meant, his understanding.

11 MR. GOLDSTEIN: So I can go into one
12 conversation and that's on December 3rd?

13 THE COURT: Basically you can go through what
14 was gone through on direct and the witness will be
15 available to you later.

16 MR. GOLDSTEIN: In our case in chief?

17 THE COURT: Sure.

18 MR. GOLDSTEIN: Okay.

19 THE COURT: We're ready.

20 Get the jury.

21 (Brief pause).

22 MR. SOROSKY: One last thing, can we ask that
23 Monk never said -- that Monk in these conversations,
24 I don't mean these specific words, but said things
25 like two separate conversations, this type of thing,

1 on December 3rd?

2 THE COURT: You can ask him what Monk said to
3 him on December 3rd.

4 MR. SOROSKY: Okay.

5 (Brief pause.)

6 THE MARSHAL: All rise.

7 (The following proceedings were had in the
8 presence of the jury in open court:)

9 THE COURT: Please be seated.

10 You may proceed.

11 MR. GOLDSTEIN: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MR. GOLDSTEIN:

14 Q Mr. Johnston, you spoke about the December 3rd
15 meeting you had with Mr. Monk, is that correct?

16 A Yes.

17 Q And at the time Mr. Monk was employed by you as a
18 lobbyist, is that correct?

19 A Yes, it is.

20 Q And he was compensated for that work, is that
21 correct?

22 A Yes.

23 Q It was \$12,500 a month, is that correct?

24 A Yes.

25 Q Now, when you saw Mr. Monk, he called you first,

1 is that right?

2 MR. NIEWOEHRER: Objection.

3 BY MR. SOROSKY:

4 Q December 3rd, I apologize. On December 3rd
5 Mr. Monk called you?

6 A Yes. Correct.

7 Q And he asked to see you, is that correct?

8 A Yes, he did.

9 Q And you said that you weren't expecting a call
10 from Mr. Monk at that time?

11 A No, I think I said -- I don't know if I said
12 that.

13 Q Okay. You weren't expecting to see him that day,
14 is that correct?

15 A Exactly; I think that's what I referred to.

16 Q And Mr. Monk eventually came to see you and that
17 was at your office in Maywood, is that correct?

18 A That's correct.

19 Q And when Mr. Monk came to see you, it was you,
20 your father, and Mr. Monk, is that right?

21 A Yes.

22 Q And you all were in the front office, is that
23 correct?

24 A Conference room, I said.

25 Q Conference room. Okay.

1 And when Monk came to see you, is it fair to
2 say your understanding was he wasn't there to talk
3 about the bill, is that correct?

4 MR. NIEWOEHNER: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. GOLDSTEIN:

7 q When Mr. Monk came to see you, what was your
8 understanding of why he came to see you?

9 MR. NIEWOEHNER: Objection, Your Honor;
10 relevance.

11 THE COURT: Sustained.

12 BY MR. GOLDSTEIN:

13 q Well, when Mr. Monk came, your father spoke to
14 Mr. Monk and basically tossed a pen in his
15 direction, asked him to sign this bill, is that
16 correct?

17 A No, what happened was, we had guest souvenir pens
18 on the middle of the conference table and Billy, as
19 a kind of joking gesture, grabbed several of them
20 and threw them at Lon in kind of a humoristic type
21 way and Lon didn't recognize what he meant by that.

22 q He appeared confused when that happened, is that
23 correct?

24 A He did.

25 q So based on that, it was your understanding

1 Mr. Monk wasn't there to talk about the bill, is
2 that correct?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: Sustained.

5 BY MR. GOLDSTEIN:

6 q well, there were then some unrelated matters that
7 you all talked about, is that correct?

8 A Yes.

9 q Okay. And eventually Mr. Monk and yourself
10 walked out, is that right?

11 A Yes.

12 q And Mr. Monk then spoke to you, was it in a
13 hallway, a stairway, where exactly was it?

14 A In essence, in a stairwell.

15 q And it was just you and Mr. Monk, is that
16 correct?

17 A Yes.

18 q And you had no reason to believe that anyone was
19 listening to this conversation, is that correct?

20 A Yes.

21 q And Mr. Monk told you what he said the governor's
22 concern was, is that fair to say?

23 MR. NIEWOEHNER: Objection.

24 THE COURT: Yeah, you can ask a better
25 question.

1 BY MR. GOLDSTEIN:

2 q Mr. Monk told you about fundraising, is that
3 correct?

4 MR. NIEWOEHRER: Objection, Your Honor.

5 THE COURT: I'm sustaining this. Maybe you
6 want to start with his account and then test it.

7 BY MR. GOLDSTEIN:

8 q What did Mr. Monk tell you when you got into the
9 stairway?

10 A We walked to the bottom of the stairs, I was
11 getting very close in proximity to the exit door
12 where we would go out, where people potentially
13 could be, and he turned to me and he said, "one more
14 thing," he said, "I spoke to the governor, he has a
15 concern that if he signs the racing legislation you
16 might not be forthcoming with the contribution."

17 q And you said you got agitated after that, is that
18 correct?

19 A Yes.

20 q And you said some things to Mr. Monk and then he
21 sort of wiped his hands and said "two separate
22 conversations," is that correct?

23 A Different subject matter.

24 q Different subject matter, okay.

25 And what you understand Mr. Monk was

1 communicating to you was the bill and the
2 contribution were separate, is that correct?

3 I'm not saying whether you believed him or
4 not, I'm saying what you understood you believed to
5 be communicated to you.

6 A well, no, I actually thought just the opposite by
7 what he had initially told me, then he came back and
8 tried to clarify it through the hand gesture and by
9 saying "different subject matter."

10 q when Mr. Monk said "different subject matter,"
11 whether you believed it or not, did you understand
12 Mr. Monk to be communicating to you that they were
13 separate, the bill and the contribution?

14 A Yes, I believe that's what he meant by when he
15 said that.

16 q But did not believe Mr. Monk, is that correct?

17 A Correct.

18 q Now, you at this time had no intention to
19 contribute to Mr. Blagojevich, is that correct?

20 MR. NIEWOEHNER: Objection.

21 THE COURT: The objection is sustained.

22 BY MR. GOLDSTEIN:

23 q well, after Mr. Monk told you two separate
24 subjects or conversations, you then said you've been
25 a supporter in the past, is that correct?

1 A I did say that, yes.

2 q Okay. And what you were trying to communicate
3 is, hey, I can contribute, is that correct?

4 MR. NIEWOEHNER: Objection.

5 THE COURT: Is that what you were trying to
6 communicate, that you could contribute?

7 THE WITNESS: No, what I was trying -- well,
8 to some degree. What I was trying to contribute, in
9 a fast action, you know, set of sentences flying
10 back and forth was that, I supported the governor in
11 the past, and what I was trying to perceive to him
12 was that we -- we had supported the governor in the
13 past with contributions but at this point not only
14 weren't going to, but we're very uncomfortable with
15 you in having a discussion about it at this point in
16 time because there was legislation that affected us
17 and I viewed that as a conflict.

18 BY MR. GOLDSTEIN:

19 q So what you communicated to Mr. Monk was that you
20 were not going to contribute, is that correct?

21 MR. NIEWOEHNER: Objection, Your Honor.

22 THE COURT: Sustained.

23 BY MR. GOLDSTEIN:

24 q You talked about what you were trying to
25 communicate, is it fair to say you were trying to

1 communicate you would not contribute?

2 MR. NIEWOEHNER: Objection, Your Honor.

3 THE COURT: To the form of the question, yes.

4 MR. GOLDSTEIN: Sustained?

5 THE COURT: Sustained. Sorry.

6 BY MR. GOLDSTEIN:

7 q Did you communicate to Mr. Monk on December 3rd
8 that you would not contribute to the governor?

9 MR. NIEWOEHNER: (Counsel standing.)

10 THE COURT: You may possibly want to address
11 this in a time frame which was the subject of his
12 answer.

13 BY MR. GOLDSTEIN:

14 q On December 3rd, 2008, while you were talking to
15 the governor -- or talking to Mr. Monk, I apologize,
16 and you responded to what Mr. Monk said as far as
17 separate subjects, were you trying to communicate to
18 Mr. Monk that you would not contribute to the
19 governor?

20 MR. NIEWOEHNER: Objection, Your Honor.

21 THE COURT: Sustained.

22 BY MR. GOLDSTEIN:

23 q Had you communicated to Lon Monk in your
24 conversations with him between September of '08 to
25 December of '08 that you would not contribute to the

1 governor?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: Sustained.

4 BY MR. GOLDSTEIN:

5 q At that time your concern was a perception
6 problem, is that correct?

7 MR. NIEWOEHNER: Objection.

8 THE COURT: Sustained.

9 BY MR. GOLDSTEIN:

10 q Did you have a concern over perception?

11 MR. NIEWOEHNER: Objection.

12 THE COURT: Sustained.

13 BY MR. GOLDSTEIN:

14 q Now, it was your understanding on December 3rd
15 that this bill would become law, is that correct?

16 MR. NIEWOEHNER: Objection, Your Honor.

17 THE COURT: Rephrase the question.

18 BY MR. GOLDSTEIN:

19 q You understood on December 3rd --

20 THE COURT: why don't you do it as a
21 non-leading question.

22 BY MR. GOLDSTEIN:

23 q what did you understand would happen to this bill
24 when it was sent to the Governor's office?

25 MR. NIEWOEHNER: Objection on relevance.

1 THE COURT: You know, there's a simple way to
2 ask the question, why don't you try again.

3 BY MR. GOLDSTEIN:

4 Q Did you believe this bill would be signed?

5 A Yes.

6 MR. NIEWOEHNER: Objection.

7 THE COURT: The answer may stand.

8 BY MR. GOLDSTEIN:

9 Q And is it fair to say you wanted it signed at a
10 particular time, you wanted it signed quickly, is
11 that correct?

12 A Yes.

13 Q In your conversations with Mr. Monk, did you ever
14 communicate to him that you would not contribute to
15 Mr. Blagojevich?

16 MR. NIEWOEHNER: Objection, Your Honor.

17 THE COURT: You know, this is like the fifth
18 one. I don't want to hear a sixth.

19 BY MR. GOLDSTEIN:

20 Q Now, you raised the issue on December 3rd, 2008,
21 this \$9,000 a day, is that correct?

22 MR. NIEWOEHNER: (Counsel standing.)

23 THE COURT: No, he can answer.

24 MR. GOLDSTEIN: It was brought up on direct
25 testimony.

1 BY THE WITNESS:

2 A I don't think it was December 3rd, I think it was
3 prior to that.

4 BY MR. GOLDSTEIN:

5 q When?

6 A Four or five days earlier.

7 q And that was --

8 A Between the time of the passage of the bill,
9 November 24th -- or 20th and the December 3rd.

10 q Okay. And that was communicated to Mr. Monk?

11 A Yes.

12 q And it had not been raised before that time, is
13 that correct?

14 MR. NIEWOEHNER: Objection.

15 THE COURT: Sustained.

16 BY MR. GOLDSTEIN:

17 q Now, all the communication you had, as far as
18 signing the bill and the contributions, was with
19 Mr. Monk, is that correct?

20 MR. NIEWOEHNER: Objection.

21 THE COURT: Sustained.

22 MR. GOLDSTEIN: Well --

23 THE COURT: You're outside the scope of the
24 direct.

25 BY MR. GOLDSTEIN:

1 q From November 24th, 2008 to December 9th, 2008,
2 did you have any conversations with Rod?

3 A No.

4 q Now, when you raised the issue of the \$9,000 a
5 day, were you trying to put pressure on Rod to sign
6 the bill?

7 MR. NIEWOEHNER: Objection.

8 THE COURT: Outside the scope; sustained.

9 BY MR. GOLDSTEIN:

10 q Were you mixing the legislation with the
11 fundraising?

12 MR. NIEWOEHNER: Objection.

13 THE COURT: Sustained.

14 BY MR. GOLDSTEIN:

15 q Now, you talked about you had an immunity
16 agreement, is that correct?

17 A Yes.

18 q And you signed that immunity letter on December
19 19th of 2008, is that correct?

20 A I'm not sure the date, but --

21 q Was it December of '08, approximately?

22 A I'm not even sure about -- yeah, I signed it,
23 whatever the date.

24 q But you are aware of the agreement, right?

25 A Yes, I am.

1 q Is it your understanding from this immunity
2 agreement that anything you say cannot be used
3 against you in a criminal prosecution?

4 A It's my understanding that I'm supposed to come
5 here and tell the truth, and whether I had one or
6 not I would be coming here to tell truth if I was
7 called.

8 q Okay. And anything you say cannot be used
9 against you by the government?

10 A Yes.

11 q Pursuant to your immunity agreement?

12 A Yes.

13 q Okay. So I understand, your understanding of the
14 immunity agreement is, anything you testify to today
15 cannot be used against you in a criminal
16 prosecution, is that correct?

17 A only if it's non-truthful.

18 q Correct.

19 And you understand the people that determine
20 whether this is truthful or not is the government,
21 is that correct?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: Sustained.

24

25 BY MR. GOLDSTEIN:

1 q You said that only if something is non-truthful
2 could you potentially be prosecuted, is that
3 correct?

4 A You don't get prosecuted for the truth, yeah, I
5 mean, it would have to be, yes.

6 q And the individuals, as you understand it, to
7 prosecute you is the government for perjury,
8 correct?

9 MR. NIEWOEHNER: Objection.

10 THE COURT: Overruled.

11 BY THE WITNESS:

12 A So what was the question now? I'm sorry.

13 MR. GOLDSTEIN: Could I have it read back? I
14 don't want to misstate it.

15 (Question read.)

16 BY THE WITNESS:

17 A Yes.

18 BY MR. GOLDSTEIN:

19 q And you've been cooperating with the government
20 for how long now?

21 A Close to December 9th, 2008.

22 q And since that time up to today, how many times
23 have you spoken with the government?

24 A Approximately ten times.

25 q And have you spoken to the government -- how

1 recently have you spoken to the government?

2 A Today.

3 q Okay. And that was in preparation for your
4 testimony?

5 A Correct.

6 q Have you ever spoken to any of the members of the
7 defense team for Mr. Blagojevich?

8 A No.

9 q Okay. You understand that you were asked of your
10 if we could speak with you?

11 A Yes.

12 q And you refused to speak with us?

13 A Our discussion went along the lines that I had
14 testified at the prior trial and that there was a
15 transcript available and that should be sufficient.

16 q Okay. And when you said your conversations, who
17 were those conversations with?

18 A My attorney.

19 q Okay. And did you communicate that to the
20 government when you spoke to them today?

21 Did you tell them, hey, you got the
22 transcript, that should be sufficient, we don't need
23 to talk, did you tell them that?

24 MR. NIEWOEHNER: Objection.

25 BY THE WITNESS:

1 A I didn't tell them that today, no.

2 MR. GOLDSTEIN: Just one moment, Your Honor.
3 (Brief pause).

4 MR. GOLDSTEIN: Just a few more questions,
5 Your Honor.

6 BY MR. GOLDSTEIN:

7 Q Now, back to the December 3rd meeting that you
8 had with Mr. Monk. Did you say to Mr. Monk during
9 this conversation that was in the stairway, did you
10 ask Mr. Monk "do you want me to put something in to
11 next quarter," referring to campaign contributions,
12 did you communicate that to Mr. Monk?

13 A No.

14 Q Did you communicate to Mr. Monk and did you say
15 the words "I'm good for it"?

16 A No.

17 MR. NIEWOEHRER: Your Honor, objection.

18 MR. GOLDSTEIN: Exact words.

19 THE COURT: The objection is sustained.

20 MR. GOLDSTEIN: Okay.

21 BY MR. GOLDSTEIN:

22 Q Did you say the exact words on December 3rd,
23 "you're just moving money through accounts"?

24 A Not to my recollection, no.

25 Q I'm talking about the December 3rd meeting in the

1 stairwell.

2 A No. No.

3 q Okay.

4 MR. GOLDSTEIN: Nothing further.

5 MR. NIEWOEHNER: Nothing from the government,
6 Your Honor.

7 THE COURT: You can step down.

8 (Witness excused.)

9 THE COURT: That's it.

10 We're going to begin again tomorrow morning
11 at 9:30 and we'll see how long we go.

12 THE MARSHAL: All rise.

13 (The following proceedings were had out of the
14 presence of the jury in open court:)

15 THE COURT: Please be seated in the
16 courtroom.

17 Come to the lectern.

18 (Brief pause).

19 THE COURT: I just want to comment that there
20 is some vague recollection that the person who
21 decides whether somebody has perjured himself either
22 wears a black robe or sits in the junior box. So
23 don't ask that question again who decides.

24 what's up for tomorrow? How many?

25 MR. SCHAR: Judge, it's our hope that we get

1 through Dr. Feinstein, Bradley Tusk, potentially
2 Mr. Scofield again, and then the case agent.

3 THE COURT: Feinstein, Tusk who else?

4 MR. SCHAR: Mr. Scofield, that would be about
5 five minutes with Mr. Scofield, Judge, and then the
6 case agent, Agent Cain.

7 THE COURT: And total time?

8 MR. SCHAR: Total time on direct probably not
9 more than an hour and a half, the time on cross is
10 an open question.

11 MR. SOROSKY: We don't anticipate any of the
12 crosses to be long.

13 THE COURT: So it's conceivable the
14 government might rest before lunch or shortly
15 thereafter?

16 MR. SCHAR: Yes, Judge.

17 THE COURT: Which then leads us to --

18 MR. SOROSKY: I don't know about before
19 lunch, but certainly --

20 THE COURT: Right. But not far off.

21 MR. SOROSKY: Right.

22 THE COURT: Then that leads us to the rest of
23 the schedule.

24 MR. SOROSKY: If I could ask one other thing,
25 too. We would ask if Mr. Monk could be recalled for

1 one or two questions on one point we would like to
2 ask him on further cross-examination and I'll relate
3 it now to Your Honor if you want. It would be very
4 short.

:54PM

5 THE COURT: Just give them to me in writing
6 and hand them to the clerk. I'll make a decision.

7 I'm assuming he's not going far.

8 MR. NIEWOEHNER: Well, he does live a couple
9 of hours away.

:54PM

10 THE COURT: Decatur to Chicago in a couple of
11 hours?

12 MR. NIEWOEHNER: Apparently.

13 THE COURT: In compliance with the speed
14 limits? I don't think.

:54PM

15 MR. NIEWOEHNER: Well, I don't have personal
16 experience with that one.

17 THE COURT: You can bring them to me, you can
18 give me the questions and we'll see how it works
19 out.

:55PM

20 MR. SOROSKY: I could tell Your Honor right
21 now.

22 THE COURT: What?

23 MR. SOROSKY: I'll relate it right now.

24 THE COURT: Yeah, go ahead.

:55PM

25 MR. SOROSKY: The last few questions that

1 Mr. Goldstein asked Mr. Johnston, Mr. Johnston
2 indicated that there was never any conversation by
3 Mr. Johnston to Mr. Monk that I'll make a
4 contribution next quarter, if you want to put
5 something in, if you want me to put something in
6 next quarter, that type of thing. After the meeting
7 between Johnston and Monk at the racetrack, Monk
8 calls the governor, and this call was played in
9 prior tapes --

10 THE COURT: Wait. Wait a second. I sort of
11 know where you're going but my question is this, I
12 don't recall Monk testifying that Johnston said
13 those things.

14 MR. SOROSKY: Monk told -- well --

15 THE COURT: He told the governor these
16 things, he told the governor that he's good for
17 it --

18 MR. SOROSKY: Correct.

19 THE COURT: -- he told the governor he was
20 looking around for accounts, but I thought he said
21 that those were not true.

22 MR. SOROSKY: No, no, no, Monk said this is
23 what he told the governor.

24 MR. NIEWOEHNER: He said there was
25 conversation along those lines, he didn't say that

1 was a quote from Johnston to Monk.

2 MR. SOROSKY: So we want to ask Monk did he
3 have those conversations with Johnston, because if
4 he had those conversations with Johnston, then Monk
5 is saying that Johnston is lying, if Monk did not
6 have those conversations with Johnston, then Monk is
7 lying to the government, and we are entitled to
8 relate to the jury that either Monk -- either
9 there's this contradiction between Monk --

10 THE COURT: No, you don't need Monk, and the
11 reason you don't need Monk is, Monk gave his
12 answers, Johnston gave his answers, if you think
13 they are in conflict, and I'm not sure they are --

14 MR. SOROSKY: Oh, they're definitely in
15 conflict.

16 THE COURT: I'm not sure they are. If
17 they're in conflict, it's a great thing to say in
18 closing argument.

19 MR. SOROSKY: Well, we'd like to bring this
20 out to the jury tomorrow.

21 THE COURT: It's been brought out to the
22 jury. What you want to do is you want to use this
23 as a device to argue your case when this is the
24 period of time when we ask questions and get answers
25 and the argument comes later. So the answer is no,

1 he can spend his time in lovely downtown Decatur.

2 So assuming we finish in the early afternoon,
3 what would you have in mind to do? Because there
4 was a previous suggestion which was to go over
5 instructions.

6 MR. SCHAR: Judge, I'm not sure we'll be
7 prepared to go over instructions tomorrow. We could
8 probably by Friday, if that's what you wanted to do,
9 or, alternatively, we -- we'll do that on Your
10 Honor's schedule.

11 THE COURT: Okay. What I am basically trying
12 to do is save the defense from having to start its
13 defense tomorrow afternoon, that's basically what
14 I'm trying to do.

15 MR. SOROSKY: Well, it'll be a long cross of
16 Tusk.

17 THE COURT: The belief I have, then, is that
18 we can start on Monday with the defense case. If it
19 turns out that there is no defense case, which in
20 the context of this case I would find it extremely
21 unlikely, but if there is none, then we will have to
22 make other appropriate arrangements. If there is
23 and we are talking about a defense that can begin
24 and end, at least the direct part of it, can begin
25 and end in three, possibly three and a half days

1 that are available to us next week, then what we
2 will plan on is whatever closing that has to be done
3 and whatever rebuttal on the 31st of May, that gives
4 us four days of that week. That's what my thinking
5 is. If anybody has any views on this, you can
6 express them tomorrow, because a lot of this depends
7 on what the defense decisions are and not the
8 prosecution's.

9 MR. SOROSKY: Are we going to be going -- is
10 there going to be trial wednesday of next week?

11 THE COURT: Yeah, there will be trial next
12 wednesday. I have been given permission to return
13 by people who have the authority to give me
14 permission.

15 MR. SCHAR: Judge, the only thing we'd ask
16 is, obviously, regarding the same courtesies, not
17 all defense witnesses but whoever is going to be
18 called on Monday if we could know by, you know, 4:30
19 tomorrow afternoon, or the last time we're in court,
20 I think that would be appropriate.

21 MR. SOROSKY: We have no desire to hide
22 witnesses from them.

23 THE COURT: Sure.

24 MR. SCHAR: And, obviously, when you say
25 closing rebuttal, you're talking about the

1 government's potential rebuttal case?

2 THE COURT: Right. If there is a rebuttal
3 case and we'll see.

4 MR. SCHAR: Okay.

5 THE COURT: So, basically, we're fine. I'll
6 see you tomorrow.

7 MR. SCHAR: And, Judge, obviously, tomorrow
8 morning we can address the other witnesses issues.

9 THE COURT: Sure.

10 (Adjournment taken from 5:00 o'clock p.m. to
11 9:30 o'clock a.m. on May 19, 2011.)

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER

/s/Blanca I. Lara

date

Blanca I. Lara

Date